

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4583/2017 & WMP Nos.4815 & 4816/2017

ARC Matriculation School,
Unjapalayam Road, Somanur,
Coimbatore, Rep.by its Correspondent,
S.Vanithamani,
W/o.Late R.S.Subramaniam .. Petitioner

Vs

- 1 The State of Tamil Nadu rep.by its
Principal Secretary to Government,
Labour & Employment Department
Secretariat,
Fort St.George,
Chennai 600 009.
- 2 The E.S.I.Regional Corporation,
Rep.by its Regional Director,
143, Sterling Road,
Chennai 600 034.
- 3 The E.S.I. -Sub Regional Officer,
Rep.by its Deputy Director,
1897, Trichy Road, Panchdeep Bhavan,
Ramanathapuram,
Coimbatore 641 045. .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned G.O.Ms.No.237 Labour and Employment (K1) dated 26.11.2010 passed by the 1st Respondent and the consequential proceedings of the 3rd Respondent in No.56001109320001301/Ins IV dated 12.08.2016 and quash the same.

For Petitioner : Mr.S.Gunalan
For R-1 : Mr.M.Elumalai, GA
For R-2 & 3 : Mr.G.Bharadwaj

ORDER

By consent, the writ petition is taken up for final disposal. Mr.M.Elumalai, learned Government Advocate accepts notice on behalf of the 1st respondent and Mr.G.Bharadwaj, learned counsel accepts notice on behalf of the respondents 2 and 3.

2 The petitioner would aver that it is an unaided educational institution and claims that the substantial amount collected by way of tuition fees is disbursed by way of salary to the staff by the school and it is thoroughly a non-commercial and non-profitable institution and the said the school is recognised by the Government of Tamil Nadu and the Notification issued by the 1st respondent [Impugned Order No.1], was challenged before this Court by the Tamil Nadu Matriculation Schools Association in WP.No.25883/2014 and so also in several other writ petitions and all the writ petitions along with writ appeals were disposed of by a common order dated 16.06.2015, in and by which, this Court had held that since the questions of law have been referred to a Larger Bench of the Hon'ble Supreme Court of India, i.e., whether the Employees State Insurance Act will apply to the Educational Institutions, thought fit to maintain interim orders till the disposal of the said Reference by the Hon'ble Supreme Court of India and in the light of the same, prays for similar orders.

3 The learned counsel for the petitioner has invited the attention of this Court to the order dated 16.12.2016 made in WP.No.42423/2016 and would submit that in similar facts and circumstances, this Court, in the light of the orders passed by the Hon'ble First Bench of this Court, in WA.No.918/2013, had disposed of the said writ petition and prays for appropriate orders.

4 Heard the submissions of Mr.M.Elumalai, learned Government Advocate appearing for the 1st respondent and Mr.C.Bharadwaj, learned counsel appearing for the respondents 2 and 3, who would submit that subsequently, several Special Leave Petitions have been dismissed and therefore, pendency of the matter before the Apex Court by way of Reference is nothing to do with the present writ petition.

5 The Court heard the rival submissions and also perused the materials placed before it.

6 It is relevant to extract paragraph 2 of the common judgment dated 16.06.2015 made in WA.No.918 of 2013 etc., batch:-

"2.In view of the aforesaid position, the writ appeals and the writ petitions are disposed of by agreement that the interim orders would continue till the disposal of the matter by the Honourable Supreme Court and the parties would naturally remain bound by the legal position enunciated by the Honourable Supreme Court on such decision being rendered. No costs. Consequently, connected miscellaneous petitions are closed."

7 In the considered opinion of the Court, the issue involved in this writ petition, is identical/similar to that of the case dealt by the Hon'ble First Bench of this Court in WA.No.918/2013 etc., batch.

8 In the light of the same, the interim orders shall continue till the disposal of the matter by the Hon'ble Supreme Court of India and subject to the result of the same, other process will follow. If the respondents 2 and 3 are aggrieved, in the light of the subsequent dismissal of the Special Leave Petitions, they are always at liberty to work out their remedy in accordance with law.

9 The writ petition stands disposed of with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

- 1 The State of Tamil Nadu rep.by its
Principal Secretary to Government,
Secretariat,
Fort St.George,
Chennai 600 009.
- 2 The E.S.I.Regional Corporation,
Rep.by its Regional Director,
143, Sterling Road,
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- 3 The E.S.I. -Sub Regional Officer,
Rep.by its Deputy Director,
1897, Trichy Road, Panchdeep Bhavan,
Ramanathapuram,
Coimbatore 641 045.

+1cc to Mr.Bharaduwaj, Advocate, S.R.No.11834
+2cc to Mr. S. Gunalan, Advocate, S.R.No.11788
+1cc to the Government Pleader, S.R.No.12145

mg (CO)
md(08/03/2017)

W.P.No.4583/2017

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