

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.07.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.8692 of 2017 &
WMP Nos. 9524 & 9525 of 2017

Padaleswarar Polytechnic College [PETITIONER]
 Rep. by its Chairman

Vs

- 1 The Government of Tamil Nadu
 Rep. by its Principal Secretary
 Labour and Employment Department
 Fort St. George, Chennai-600 009.
- 2 Employees State Insurance Corporation
 Rep. by its Regional Director
 Regional Office
 No.143 Sterling Road
 Chennai-600 034.
- 3 The Manager
 Nellikuppam Branch
 Employees State Insurance Corporation
 No.2/9 Bhadrachalam Street
 Manjakuppam, Cuddalore-607 001. [RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, to call for the records of the respondents relating to the order of the 1st respondent in G.O.Ms. No.237 Labour and Employment (K1) Department dated 26.11.2010 and published at Page 879 of Part II Section 2 of the Tamil Nadu Government Gazette No.51 dated 29.12.2010 and ending with the Order of the 2nd respondent No.TN/INS VIII/ 51-00-110574-000-1399C-18 Adhoc/ 995/16 dated 23.2.2017 and quash the same.

For Petitioner : Mr.Kandhandoraismi

For Respondents : Mr.K.Dhnanjeyn
Spl.Govt.Pleader

ORDER

The order fixing the contribution to be paid by the writ petitioner is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner in support of his contentions relied on the Judgement of the Hon'ble Full Bench of this Court in Writ Appeal No.1233 of 2011 etc. batch dated 9th January, 2015. For better appreciation, the operative portion of the Judgement is extracted hereunder:

“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.”

3. Based on the aforementioned Judgement of the Hon'ble Division Bench, interim orders are being granted in the Writ Petitions. However, the learned Standing Counsel appearing for the respondents submitted an order passed in W.P.Nos.42247 of 2016 dated 20.03.2017, by stating that the pendency of the S.L.P. before the Hon'ble Supreme Court was decided on 15.03.2016 itself. The said order reads as follows:

“The only challenge sought to be made in this writ petition is to the coverage of employee state insurance qua the private educational institution.

2. When the matter is taken up for hearing, learned counsel appearing for respondents 2 and 3 submits that the issue has been dealt with finally by the Apex Court in a batch of cases in SLP No.28285 of 2009 etc., and by order dated 15.03.2016, it has been held that private educational institutions are also bound to pay the employee state insurance contribution.

3. In such view of the matter, the writ petition stands dismissed. However, taking into consideration the pendency of the writ petition and the difficulties expressed by the petitioner, the arrears of ESI contribution as on today is ordered to be paid by the petitioner in 12 equal monthly instalments. It is made clear that the order would cover the past arrears till the month of March, 2017 and thus from the month of April, 2017, the petitioner is bound to pay the ESI contribution on regular basis. No costs. Consequently, connected miscellaneous petitions are closed. “

4. In view of the final order passed by the Hon'ble Supreme Court in batch of cases cited supra, no further adjudication needs to be undertaken in this Writ Petition.

5. Accordingly, the Writ Petition stands dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

24.07.2017

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To

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S.M.SUBRAMANIAM,J.

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