

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.06.2017

CORAM

THE HON'BLE MR.JUSTICE T. RAJA

W.P.No.13630 of 2017

and

W.M.P.Nos.14813 & 14814 of 2017

Sri Rahavendirar Middle School,
Represented by its Head Mistress cum Correspondent,
No.102, MIG Housing Board,
Kurumbapet,
Puducherry - 605 009
(Educational Agency: Sri Rahavendirar Education Centre)
.... Petitioner

Versus

1. The Government of Puducherry,
represented by its Additional Secretary
to Government (Labour),
Labour Department, General Secretariat,
Puducherry.
2. The Employees' State Insurance Corporation,
Regional Office (Puducherry),
Represented by its Regional Director,
No.178, 100 feet Road, Ansari Duraisamy Nagar,
(Opp. to R.T.O.), Puducherry - 605 004.
3. The Deputy Director,
The Employees' State Insurance Corporation,
Regional Office (Puducherry),
Represented by its Regional Director,
No.178, 100 feet Road, Ansari Duraisamy Nagar,
(Opp. to R.T.O.), Puducherry - 605 004. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling for the records relating to Order No. 6563/Lab/K/2004 dated 24.06.2005 passed by the 1st Respondent, and Order No.55-00-045605-000-1301/C18(Adhoc)/(5741) dated 20.03.2017 passed by the 3rd Respondent, quash the same.

For Petitioner : Ms.P.Pooja,
for M/s.Giridhar and Sai

For Respondents : Mr. Syed Mustafa,
Special Government Pleader
(Pondicherry)

O R D E R

The Petitioner School is established by Sri Rahavendirar Education Centre, which is a registered Society, vide Sl.No. 571 of 2005, dated 07.07.2005. The Society is established for the purpose of providing best education to the rural children, who are socially and economically backward students in Pondicherry.

2. The Petitioner School is also conducting classes from LKG to 10th Standard and is affiliated to the State Board. The Petitioner's School is an unaided Private School. While so, the ESI Act was extended to the Private Educational Institutions in Puducherry by Notification No.6563/Lab/K/2004 dated 24.06.2005 (IMPUGNED ORDER - I), which was issued by the 1st Respondent in exercise of powers conferred under Sub-section (5) of Section 1 of the ESI Act.

3. Challenging the same, it is stated that, although only the Central Government has power to do so in the case of Union Territory, the 2nd Respondent / Employees' State Insurance Corporation, Puducherry, is taking speedy steps to recover the sums from the Petitioner school. It is further stated that the petitioner's educational institution is established for a charitable purpose without any profit motive.

4. The present impugned Notification dated 24.06.2005 has already been challenged in a batch of writ petitions i.e. W.P.No. 4570 of 2011, W.P.Nos. 2471 of 2007, 24691 of 2010 and 30999 of 2012 and this Court, by orders dated 14.03.2011, 04.01.2011, 04.01.2011 and 22.11.2012 respectively, dismissed the said writ petitions.

5. In a similar issue i.e. whether the Employees' State Insurance Act, 1948 would apply to educational institutions?, the Hon'ble First Bench of this Court in Writ Appeal No.918 of 2013 etc. batch, by common order dated 16.06.2015, had disposed of the same on the following terms:-

"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."

6. Following the above said order, I have also disposed of a similar writ petition in W.P.No.465 of 2017, dated 06.01.2017. Therefore, since the issue involved in this writ petition is identical to that of the case dealt with by the Hon'ble First Bench of this Court, this writ petition is disposed of on the basis of paragraph-2 of the above order dated 16.06.2015 passed in Writ Appeal No.918 of 2013 etc., batch. Consequently, connected miscellaneous petitions are closed. No Costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrr/rkm

To

1. The Additional Secretary to Government (Labour),
Government of Puducherry,
Labour Department, General Secretariat,
Puducherry.
2. The Regional Director,
Employees' State Insurance Corporation,
Regional Office (Puducherry),
No.178, 100 feet Road, Ansari Duraisamy Nagar,
(Opp. to R.T.O.), Puducherry - 605 004.
3. The Deputy Director,
The Employees' State Insurance Corporation,
Regional Office (Puducherry),
Represented by its Regional Director,
No.178, 100 feet Road, Ansari Duraisamy Nagar,
(Opp. to R.T.O.), Puducherry - 605 004.

+1cc to M/s.Giridhar and Sai, Advocate, S.R.No.40570

+1cc to the Government Pleader(Pondy), S.R.No.40893

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W.M.P.Nos.14813 & 14814 of 2017

GJ II(CO)
CA(21/06/2017)