

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.3657 of 2017

M/s.Alagappa Schools
Rep. By its Principal Mr.K.S.Revati,
D/o.Mr.S.Kumaraswamy
No.49, Gangadeswarar Koil Street,
Purasawalkam, Chennai - 84.

.. Petitioner

Vs

1.The Deputy Director,
Employees State Insurance Corporation,
Regional Office,
ESI Corporation, Panchdeep Bhawan,
143, Sterling Road, Chennai - 34.

2.The Recovery Officer,
Office of the Recovery Officer,
ESI Corporation, Panchdeep Bhawan,
143, Sterling Road, Chennai - 34.

3.The Branch Manager,
Karur Vysya Bank,
Purasawalkam Branch,
51, Gangadeeswarar Koil Street,
Purasawalkam, Chennai - 84.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the first respondent in proceedings No.5100100773001302/72820161131-INS-VIII, dated 04.08.2016 and proceedings No.5100100773001302/72820161053-INS-VIII, dated 04.08.2016 and proceedings No.TN/RECY/45G/51-51001007730001302/CCR-75603, dated 30.01.2017 passed by the second respondent and quash the same as illegal, arbitrary and non-est in law.

For petitioner : Mr.B.Vijay

For R1 & R2 : Mr.G.Bharadwaj

O R D E R

The petitioner / M/s.Alagappa Schools, represented by its Principal, Purasawalkam, Chennai, has filed the present writ petition challenging the impugned order of recovery issued by the Deputy Director of Employees State Insurance Corporation, Chennai / first respondent herein.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2 and with their consent, the writ petition itself is taken up for final disposal.

3. The petitioner School is a self-financing institution functioning under the provisions of the Tamil Nadu Private School Regulation Act, 1973. The School Education Department, Government of Tamil Nadu, has accorded permanent affiliation to the petitioner School. Whilesso, the first respondent called upon the petitioner School to attend enquiry at their office to decide and determine about the amount of contribution payable by the School under the provisions of Employees State Insurance Act, 1948. Thereafter, by attending the enquiry, it is submitted before the first respondent that the petitioner School do not fall within the ambit of ESI Act, 1948, and consequently, it has sought for withdrawal of the said proceedings. However, their request was not acceded to. Finally, the respondents 1 and 2 have passed the impugned order vide proceedings dated 04.08.2016 ordering for consequential recovery of the contributions determined in the above said impugned order.

4. 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."

5. 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, W.M.P.Nos.3685 and 3686 of 2017 are closed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

- 1.The Deputy Director,
Employees State Insurance Corporation,
Regional Office,
ESI Corporation, Panchdeep Bhawan,
143, Sterling Road, Chennai - 34.
- 2.The Recovery Officer,
Office of the Recovery Officer,
ESI Corporation, Panchdeep Bhawan,
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- 3.The Branch Manager,
Karur Vysya Bank,
Purasawalkam Branch,
51, Gangadeeswarar Koil Street,
Purasawalkam, Chennai - 84.

+2cc to Mr.B.Vijay, Advocate, SR. 9548

+1cc to Mr.G. Bharadwaj, Advocate, SR. 10187

W.P.No.3657 of 2017

SK(CO)
VR(22/02/2017)

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