



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) Nos.19677 of 2017 and
WMP (MD) Nos.15937 and 15938 of 2017

M/s.Ellora Nursery & Primary School,
Rep.by its Correspondent,
P.Suresh Babu,
Plot No.1, Babu Nagar Colony,
Sourashtra Teachers Colony,
Anupanadi, Madurai - 9.

...Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Principal Secretary,
Labour and Employment Department,
Fort St.George, Chennai - 600 009.

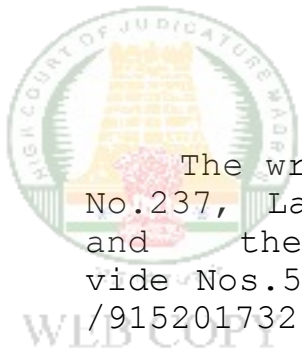
2.The Employees State Insurance Corporation,
Regional Office (Tamil Nadu),
Rep.by its Regional Director,
143, Sterling Road,
Chennai - 600 034.

3.The Employees State Insurance Corporation,
Sub-Regional Office,
Rep.by its Assistant Director,
2nd West Street, K.K.Nagar,
Madurai - 625 020.

.. 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 of the first respondent herein in G.O.(Ms) No.237, Labour and Employment (K1) Department, dated 26.11.2010 and consequential notice issued by the third respondent in his two notices No.57000738080001301 /9152017258 /373/17 dated 15.09.2017 & No. 57000738080001301/9152017321/370/17 dated 15.09.2017 as illegal and void and quash the same.

For Petitioner	: Mr.K.Muraleedharan
For Respondent-1	: Mr.J.Gunaseelan Muthiah Government Advocate
For Respondent 2 & 3	:Mr.K.C.Ramalingam Standing Counsel

ORDER

The writ petition has been filed seeking to quash the G.O.(Ms) No.237, Labour and Employment (K1) Department, dated 26.11.2010 and the notices dated 15.09.2017 issued by the third respondent vide Nos.57000738080001301/9152017258/373/17 and 57000738080001301/9152017321/370/17.

2. According to the learned counsel for the petitioner, the school namely M/s.Ellora Nursery & Primary School at Madurai, was established in the year 2008, which is an unaided school. While so, G.O.(Ms)No.237, Labour and Employment (K1) Department, dated 26.11.2010 has been issued extending the provisions of the ESI Act, 1948 to the Educational Institutions. Subsequently, the third respondent by the impugned notices has directed to pay arrears towards ESI subscription. Aggrieved over the notices issued, the petitioner has come before this Court, seeking to quash the same.

3. In similar circumstances, the Division Bench of this Court at Principal Seat in W.A.No.1233 of 2011 & Batch dated 09.06.2015, has delivered the following judgment.

"Learned counsel for the parties state that as recorded in the order dated 05.05.2005 reported in 2005 (5) SCC 1 (State of U.P vs. Jai Bir Singh), the question of law has been referred to the Larger Bench of the Honourable Supreme Court, ie., whether the Employees' State Insurance Act, 1948, would apply to educational institutions. Interim orders have been operating in the present matter.

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."

4. Since the issue involved in the present case is covered by the decision mentioned supra, the Writ Petition is disposed of in terms of the above Judgment. Once the issue is decided, the principle laid down therein shall automatically apply to the petitioner. Subsequently, the prohibitory order is also directed to be kept in abeyance. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar.



To

The Principal Secretary,
State of Tamil Nadu,
Labour and Employment Department,
Fort St.George, Chennai - 600 009.

+1CC to Mr.K.Muraleedharan, Advocate, SR.No. 84003
+1CC to Mr.K.C.Ramalingam, Advocate, SR.No. 83784

ORDER MADE IN
W.P (MD) Nos.19677 of 2017
26.10.2017

dsk
AM/SV MMS/SAR 3/30.10.2017/3P/4C