



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

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**W.P.(MD)No.3275 of 2017
and W.M.P.(MD) No.2626 of 2017**

M/s.Fusco's Matriculation Higher Secondary School,
Rep. by its Correspondent,
Vandiyur,
Madurai - 625 020.

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Labour and Employment Department,
Fort St. George, Chennai - 600 009.
- 2.Employees' State Insurance Corporation
Regional Corporation (Tamil Nadu)
Represented by its Regional Director,
143, Sterling Road, Chennai - 600 034.
- 3.Employees' State Insurance Corporation,
Sub-Regional Office,
Represented by its Assistant/Deputy Director,
2nd West Street, K.K. Nagar,
Madurai - 625 020.
- 4.The Social Security Officer,
E.S.I. Corporation,
Madurai - 625 020.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India to issue 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 1st respondent and the consequential proceedings of the 3rd respondent dated 04.01.2017 in No.57000710260001303/1182016455 540/16, and quash the same in respect of the petitioner school.

For Petitioner

:Mr.V.John Kennedy

For 1st Respondent:Mr.S.Satheeshkumar
Additional Government Pleader

For Respondents 2 to 4

:Mr.K.C.Ramalingam

ORDER

<https://hcservices.ecourt.gov.in/hcservices/>
Mr.S.Satheeshkumar, the learned Additional Government
Pleader takes notice for the 1st respondent and Mr.K.C.Ramalingam,



the learned Standing Counsel takes notice for respondents 2 to 4.

2.The prayer in the writ petition is for 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 1st respondent and the consequential proceedings of the 3rd respondent dated 04.01.2017 in No.57000710260001303/1182016455 540/16, and quash the same in respect of the petitioner school.

3.By consent of both sides this writ petition itself is taken up for final disposal.

4.The learned counsel appearing for the petitioner would submit that the issue raised in this Writ Petition is atleast for the time being has been concluded by the orders of a Division Bench of this Court made in W.A.No.1293 of 2011 etc., batch, dated 09.06.2015. Based on the said order of the Division Bench a number of orders were passed by this Court. One of such order as has been relied upon by the learned counsel appearing for the petitioner is **W.P.(MD) No.8829 of 2016 dated 29.04.2016**, in the matter of **St.Antony's Matriculation Higher Secondary School v. The Government of Tamil Nadu, represented by its Principal Secretary, Labour and Employment Department and others**. In the said order, the learned Judge of this Court has passed the following order:

"2.When this matter is taken up for hearing, the learned counsel for the petitioner would submit that a Division Bench of the Principal Bench of this Court in W.A.No.1233 of 2011 & batch dated 09.06.2015, has passed 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 ben referred to the Larger Bench of the Honourable Supreme Court, i.e., 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 of 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."

3.Heard the learned counsel for the respondents on the above submission made by the learned counsel for the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/> 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. No costs. Consequently, connected miscellaneous petitions are closed."

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5. In view of the said order having been passed following the order of a Division Bench of this Court, there shall be similar order to that effect in this writ petition also.

6. With these orders, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Principal Secretary,
Labour and Employment Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.
 2. Employees' State Insurance Corporation
Regional Corporation (Tamil Nadu)
Represented by its Regional Director,
143, Sterling Road, Chennai - 600 034.
 3. Employees' State Insurance Corporation,
Sub-Regional Office,
Represented by its Assistant/Deputy Director,
2nd West Street, K.K. Nagar,
Madurai - 625 020.
 4. The Social Security Officer,
E.S.I. Corporation,
Madurai - 625 020.
- +1 CC to M/s.V.JOHN KENNEDY, Advocate, SR No. 10453
+1 CC to M/s.K.C.RAMALINGAM, Advocate, SR No.10801
+1 CC to M/s.THE SPEICAL GOVERNMENT PLEADER, SR No.10928
SJ
PSM/RSK/SAR3/06.03.2017/3P/8C