

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.03.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.6706 of 2018 and
WMP.Nos.8336 and 8337/2018

1. M/s.Saran Matriculation Higher Secondary School
rep. by its Correspondent Dr.K.C.Ramaswami,
Sitra Road, Kalappatti Post,
Coimbatore-641 048.
 2. Dr.K.C.Ramaswami
- ...Petitioners

Versus

1. Employees State Insurance Corporation
rep. by its Additional Commissioner,
Regional Office,
Panchdeep Bhavan,
143, Sterling Road, Chennai-34.
 2. Employees State Insurance Corporation
rep. by its Deputy Director,
Sub-Regional Office-Coimbatore,
Panchdeep Complex,
1897, Trichy Road,
Ramanathapuram, Coimbatore.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Notice dated 03.11.2017 bearing No.56001 109730001302/1132017337 issued by the 2nd respondent and quash the same and directing the 2nd respondent to refrain from taking any action against the petitioners under the Employees' State Insurance Act, 1948.

For Petitioners : Mr.K.R.Arun Shabari

For Respondents : Mr.K.Prabakar

ORDER

Challenging the impugned Notice dated 03.11.2017 bearing No.56001 109730001302/1132017337 issued by the 2nd respondent, the present Writ Petition has been filed.

2. Learned Counsel for the petitioners submitted that the 1st petitioner School is not covered under the provisions of the Employees' State Insurance Act. Hence, the G.O.(Ms) No.237, Labour and Employment (K1) Department, dated 26.11.2010, proposing to extend the Employees' State Insurance Scheme to the Educational Institutions cannot be extended for the simple reason that the Tamil Nadu Private Schools Associations have already challenged the same and the said Government Order has been stayed by this Court by order dated . Therefore, the present Writ Petition may be entertained by setting aside the impugned Notice issued by the 2nd respondent.

3. The learned Counsel for the petitioner has also referred to an order passed by a learned Single Judge of this Court reported in **2016 SCC OnLine Madras 4223** (St.Joseph Nursery and Nursery School rep. by its Correspondent, Presentation Convent, No.9, Arathoon Road, Royapuram, Chennai-13 vs. The Principal Secretary, Government of Tamil Nadu, Labour and Employment Department, Fort

St. George, Chennai-9 and two others) wherein it is held that the question of law has been referred to the Larger Bench of the Honourable Supreme Court, namely, whether the Employees' State Insurance Act, 1948 would apply to the educational institutions. Since the said issue is pending consideration on the date of passing of this Order in the Supreme Court, this Court while disposing of the said Writ Petition granted an order of stay of the impugned proceedings insofar as the petitioner therein is concerned. But now much water has flown down. The Supreme Court in the subsequent order passed in SPL (C) Nos.28287/28289/2009 etc. batch which were filed against the dismissal of W.P.(C) No.5986/2008 (K) (Kerala CBSE School Management and others vs. State of Kerala represented by its Secretary and others), by the High Court of Kerala by order dated 03.07.2009 and also in some other Writ Petitions, has held that educational institutions are also coming under the ambit of Employees' State Insurance Act. Likewise, the Supreme Court of India has also dismissed the Special Leave Petition (Civil) Diary No.1626/2018 which was filed against the order passed by this Court in 06.09.2017 in W.P.No.22948/2017 in similar circumstance. Considering the same, I have passed an order in W.P.No.30788/2017 dated 28.11.2017 and paragraphs 2 and 3 of the said order are given as under:

"2. Heard the learned Counsel for the petitioner and the learned Additional Government Pleader appearing for the 1st respondent.

3. Admittedly, the issue raised in this writ petition is no longer rest integra, since this court in Writ Petition Nos.25752, 25744 and 26031 of 2017 on 09.10.2017 has held that the Educational Institutions are also coming under the ambit of the said Act and the prayer made in the said writ petitions were refused. This Court, being bound by the said order, is inclined to dismiss the present Writ Petition. Accordingly, the Writ Petition is dismissed. It is made clear that the petitioner shall pay the entire arrears of contributions in twelve equal instalments and the 1st instalment shall commence from 1st week of December, 2017. Consequently, connected Miscellaneous Petition is closed. No costs."

4. In view of the above, the petitioners are given 12 equal instalments to clear the balance amount. Accordingly, the 1st instalment will commence from the 1st week of April, 2018 and they are further directed to clear the entire arrears of contribution.

5. With this observation, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

23.03.2018

To

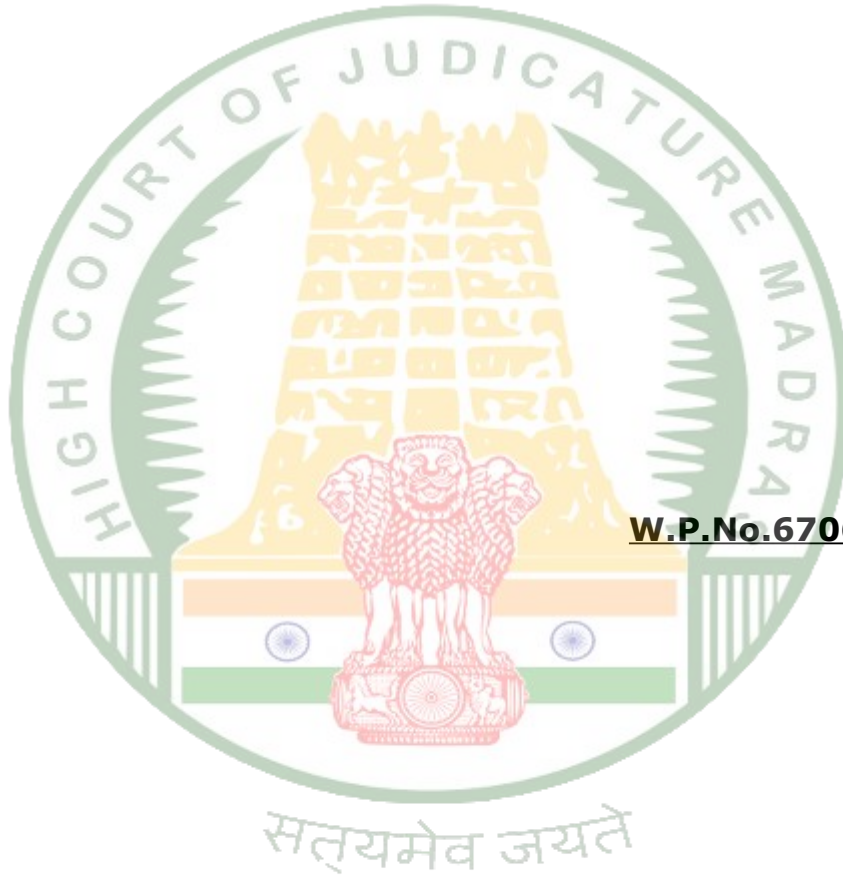
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T.RAJA, J.
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