

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.523 of 2018
and
CMP.No.4914 of 2018

Saraswathi Ramachandra Matriculation Higher
Secondary School rep. by its Principal,
M.Bhagyalakshmi,
W/o.P.M.Palaniswamy,
216, SRV School Street,
Edayarpalayam Road,
Kuniamuthur PO,
Coimbatore 641 008. ... Appellant

vs.

- 1.The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
Labour and Employment Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The E.S.I. Regional Corporation,
rep. by its Regional Director,
143, Sterling Road,
Chennai - 600 034.
- 3.The ESI - Sub Regional Officer,
rep. by its Deputy Director,
1897, Trichy Road,
Ramanathapuram,
Coimbatore - 641 045. ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 05.01.2018 passed by a learned Single
Judge of this Court in W.P.No.34339 of 2017.

W.P.No.34339 of 2017:-

Writ of certiorarified mandamus calling for the records
pertaining to the impugned G.O.Ms.No.237 Labour and Employment
Department (K1) Department dated 26.11.2010 passed by the 1st
respondent and the

consequential proceedings of the 3rd respondent in Ref.No.56001143950001303/ INS IV/ CBE dated 09.08.2017 and to quash the same

For Appellant : Mr.S.Gunalan
For R1 : Mr.P.S.Sivashanmuga Sundaram, SGP

JUDGMENT

(Order of the Court was made by HULUVADI G. RAMESH, J.)

Heard Mr.S.Gunalan, learned counsel for the appellant and Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader appearing for the first respondent and perused the materials placed before this Court.

2.This Writ Appeal has been directed against the order dated 05.01.2018 passed by a learned Single Judge of this Court in W.P.No.34339 of 2017.

3.For the sake of convenience, the parties are referred to as per their rank in the writ petition.

4.In the aforesaid writ petition, the petitioner has challenged the order of the first respondent in G.O.Ms.No.237, Labour and Employment (K1) Department, dated 26.11.2010, whereby, the Government extended the provisions of the Employees State Insurance Act, 1948 (Central Act XXXIV of 1948) (for short 'the Act') to the educational institutions (excluding Government and Government aided institutions) run by individuals, trustees, societies or other organizations, wherein, twenty or more persons are employed or were employed on any day of the proceeding twelve months, with effect from the date of publication of the notification. The consequential proceedings of the third respondent dated 09.08.2017, calling upon the petitioner School to produce a copy of the stay order, was also sought to be quashed.

5. The learned Single by order dated 5.1.2018 has held that admittedly, the issue raised in this Writ Petition is no longer res integra, since this Court in similar circumstances in W.P.Nos.25752, 25744 and 26031 of 2017 by order dated 9.10.2017 has held that the educational institutions also are coming under the ambit of the Act, thereby refusing to grant the prayer sought in the writ petitions.

6. The relevant portion in the order passed by this Court in W.P.Nos.25752, 25744 and 26031 of 2017 dated 9.10.2017 is extracted hereunder:

"2. The Hon'ble Supreme Court of India dismissed a batch of cases filed in SLP(C)

No.28285 of 2009 etc., dated 15th March, 2016. By following the orders of the Hon'ble Supreme Court of India, this Court passed final orders on 20th March, 2017 in Writ petition No.42247 of 2016 as hereunder:

"The only challenge sought to be made in this writ petition is to the coverage of employee state insurance qua the private educational institution.

2. When the matter is taken up for hearing, learned counsel appearing for respondents 2 and 3 submits that the issue has been dealt with finally by the Apex Court in a batch of cases in SLP No.28285 of 2009 etc. and by order dated 15.03.2016, it has been held that private educational institutions are also bound to pay the employee state insurance contribution.

3. In such view of the matter, the writ petition stands dismissed. However, taking into consideration the pendency of the writ petition and the difficulties expressed by the petitioner, the arrears of ESI contribution as on today is ordered to be paid by the petitioner in 12 equal monthly instalments. It is made clear that the order would cover the past arrears till the month of March, 2017 and thus from the month of April, 2017, the petitioner is bound to pay the ESI contribution on regular basis. No costs. Consequently, connected miscellaneous petitions are closed."

4. In view of the above orders passed by this Court, the writ petition stands dismissed. However, there shall be no orders as to costs. Consequently, the connected miscellaneous petition is also closed."

7. Having regard to the admitted fact that the petitioner Matriculation Higher Secondary School is a private educational institution, we do not find any reason to interfere with the order so passed by the learned Single Judge, as the issue involved herein is covered by the decision of the Hon'ble Supreme Court in a batch of cases in SLP(C) No.28285 of 2009 etc. dated 15.03.2016, wherein, it has been held that the private educational institutions are also bound to pay the Employee State Insurance contribution. Therefore, the petitioner

School has to pay the ESI contribution to the authority concerned, in accordance with law.

8. Further, we direct the petitioner School to pay the arrears of ESI Contribution till the month of March, 2018, in twelve (12) equal monthly instalments. It is made clear that the petitioner School shall continue to pay the ESI contribution on regular basis from the month of April, 2018 onwards.

9. With the above modification, the writ appeal stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Labour and Employment Department,
Secretariat, Fort St. George, Chennai - 600 009.
- 2.The Regional Director,
E.S.I. Regional Corporation,
143, Sterling Road, Chennai - 600 034.
- 3.The Deputy Director, ESI - Sub Regional Officer,
1897, Trichy Road, Ramanathapuram, Coimbatore - 641 045.

+lcc to Mr.S.Gunalan, Advocate, S.R.No.28772

+lcc to the Government Pleader, S.R.No.29221

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