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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.06.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.3751 of 2007

Angammal Educational Trust rep,
by its Chairman M.Karunanidhi
Elayampalayam
Tiruchengode Taluk
Namakkal District.

..Petitioner

vs

1. Insurance Regulatory and
Development Authority
rep. by its Chairman
Parishrama Bhavanam
6-9-58 B 3rd Floor
Basheer Bagh
Hyderabad - 500 004.
2. The Tariff Advisory Committee
rep. by its Secretary
Ador House, 1st Floor
6A, Dubash Marg
Mumbai - 400 023.
3. The United India Insurance Co.,Ltd,
rep. by its Chairman and Managing Director
24, Whites Road,
Chennai - 600 014.
4. The United India Insurance Co. Ltd,
rep. by its Branch Manager
Thiruchengode
Namakkal Dt
5. Bajaj Alianz General Insurance Company Ltd
rep by its Chairman and Managing Director
G.E.Plaza
Airport Road
Pune - 411 006



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6. Bajaj Alianz General Insurance Co Ltd rep by
its Branch Manager
11, People's Park II Floor
Government Arts College Road
Coimbatore 641 018

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 1st respondent pertaining to the revision of tariff made in circular Ref.No.034/IRDA/DE-Tariff/Dec.06 dated 04.12.2006 and quash the same so far as it relates to the petitioner.

For Petitioner : Mr. D.Sivakumaran

For Respondents: M/s. M.B.Raghavan for R1
M/s.W.Vijayaraghavan
for R3, R4 & R6

O R D E R

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Certiorari, calling for the records of the 1st respondent pertaining to the revision of tariff made in circular Ref.No.034/IRDA/DE-Tariff/Dec.06 dated 04.12.2006 and quash the same.

2. The institutions run by the petitioner are situated in rural area and the petitioner is having 83 buses and 26 vans. The buses are used for transporting the students studying in the institutions of the petitioner to and from their houses and hostels. The bus vehicles are used only for the purpose of providing the facility of transportation for students studying in the petitioner's institutions and there is no commercial activity in the operation of such vehicles and these buses cover only a distance of about 40kms per day and the buses are used only on the working days of the institutions viz. about 230 days in a year. On the weekly holidays and other periodical holidays applicable to the educational institutions, when the students do not attend institutions, the vehicles are not used.

3. While being so, the 1st respondent issued a circular in Reference No.034/IRDA/DE-Tariff-December 06, dated 04.01.2006 to all General Insurers, among other things notifying the increase in the premium rate to various classes of vehicles. Against which, the present Writ Petition is filed by the petitioner.



4. The learned counsel appearing for the petitioner reports no instructions.

5. The learned counsel appearing for the respondents would submit that the very same issue is already dealt with by this Court in W.P.No. 10908 of 2011, by its order dated 14.06.2011.

"33. The other contention that the educational institutions stand on different footing is concerned, the same also does not stand to reason. In the present case, the issue is not the ownership of the vehicle of purpose for which the vehicle is used. Admittedly, the educational institutions are running the motor vehicles on public road and carrying students (passengers) subject to risk and also third party claims. Therefore, the Act being the beneficiary piece of legislation and also intended to protect the vehicle owners from the claim of third parties, necessarily the vehicles will have to be insured. Therefore, there cannot be distinction between the educational institutions putting the motor vehicles carrying on passengers on road and the private operators. In this context, the educational institutions do not enjoy different status.

34. The Supreme Court even in respect of minority educational institutions having protection under Article 30(1) of the Constitution has held that such institutions are subjected to all the municipal laws, taxing statutes and labour laws and in such circumstances, the character of the employer is irrelevant. The Supreme Court vide its judgment in 'Christian Medical College Hospital Employees' Union v. C.M.C. Vellore Assn.', reported in (1987) 4 SCC 691 had categorically held that in the matter of application of laws relating to public health, taxation, municipal laws and labour legislation, the minority managements cannot claim any privilege and those laws and labour must be uniformly applied to the workmen employed by those institutions irrespective of character of those institutions. The Supreme Court had forewarned that if not done in that fashion, it may result in maladministration of those institutions. It is necessary to extract the following passage found in paragraph 18 of the said judgment and it reads as follows:

18... If a creditor of a minority educational institution or a contractor who has built the building of such institution is permitted to file a suit for recovery of the money or damages as the case may be due to him



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against such institution and to bring the properties of such institution to sale to realise the decretal amount due under the decree passed in such suit is Article 30(1) of the Constitution is not violated, if a minority school is ordered to be closed when an epidemic breaks out in the neighbourhood, if a minority school building is ordered to be pulled down when it is constructed contrary to town planning law or if a decree for possession is passed in favour of the true owner of the land when a school is built on a land which is not owned by the management of a minority educational institution such dispute will have necessarily to be resolved by providing appropriate machinery for that purpose. Laws are now passed by all the civilised countries providing for such a machinery...

Hence that contention must also fail".

6. The above said view was further challenged by way of appeal before the Division Bench of this Court in W.A.Nos. 1103 and 1104 of 2011.

"The learned single Judge, after considering all the relevant provisions of the Act, and the tariff fixed by the Authority, as also the principle laid down by the Supreme Court in the case of LIC of India - Vs- Consumer Education & Research centre reported in (1995) 5 S.C.C. 482, held that the quantum of premium fixed by the Authority cannot be subject to judicial review.

We fully agree with the view expressed by the learned single Judge, There is no merit in these appeals, which are accordingly dismissed. There shall be no order as to costs. Consequently, M.P.Nos.1 and 1 of 2011 in the respective writ appeals are closed."



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7. In view of the above, nothing survives in the present writ petition and therefore, no further adjudication is required and accordingly, the writ petition stands dismissed. No costs.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

kmm

To

1. The Chairman

Insurance Regulatory and
Development Authority
Parishrama Bhavanam
6-9-58 B 3rd Floor
Basheer Bagh
Hyderabad - 500 004.

2. The Secretary

Tariff Advisory Committee
Ador House, 1st Floor
6A, Dubash Marg
Mumbai - 400 023.

+1 CC to Mr.M.B. Raghavan, Advocate sr 50793.

+1 CC to Mr.S.D. Shivakumaran, Advocate sr 50298

W.P.No. 3751 of 2007

VGII(CO)

SP(13/08/2019)