

IN THE HIGH COURT OF JUDICATURE AT MADRAS

23.04.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.12107 of 2019

and

W.M.P.No.12384 of 2019

Kurinji Super Specialities Hospital Limited,
rep.by its Managing Director,
Dr.T.Jayaraman

... Petitioner

vs.

1.The Insurance Commissioner (NTA),
Appellate Authority (Hqrs.),
(All Divisions other than Medical Division),
ESIC Head Quarters Office,
Panchdeep Bhawan,
C.I.G.Marg,
New Delhi-110 002

2.The Director cum Appellate Authority,
Employees State Insurance Corporation,
Sub Regional Office,
39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem-636 009

3.The Deputy Director,
Employees State Insurance Corporation,
Sub Regional Office,
39/57, Theerthamalai Vaniga Valagam,
Three Roads,
Salem-636 009

4.The Recovery Officer,
Employees State Insurance Corporation,
Sub Regional Office,
Salem-636 009

..... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to reassess the contribution determined by the 3rd respondent issued vide proceedings in No.63000937340001401/INS-I/SRO/SLM/148-17, dated 11.04.2018, by allowing the petitioner to submit the additional materials containing the actual number

of employees worked in the petitioner hospital at the relevant period from 01.04.2013 to 31.03.2016 with the statement of accounts and salary statements and all other relevant documents by considering the representation dated 18.04.2018 and appeal dated 17.09.2018.

For Petitioner .. Mr.Arul Murugan G.

For Respondents .. Mr.C.V.Ramachandramurthy,
C.G.S.C.

ORDER

The writ petition has been filed seeking for issue of writ of mandamus directing the respondents to reassess the contribution determined by the 3rd respondent, vide proceedings, dated 11.04.2018, by allowing the petitioner to submit the additional materials containing the actual number of employees worked in the petitioner hospital at the relevant period from 01.04.2013 to 31.03.2016 with the statement of accounts and salary statements and all other relevant documents and by considering the representation dated 18.04.2018 and appeal dated 17.09.2018.

2.As against the order impugned in the writ petition, according to the learned counsel for the petitioner, an appeal has already been preferred. When the appeal is admittedly pending against the impugned order passed by the respondent authority, this Court is unable to appreciate as to how the present writ petition can be entertained.

3.According to the learned counsel for the petitioner, despite the appeal being filed, the authorities are resorting to take coercive action against them.

4.The above said reason cannot be the basis for entertaining the present writ petition. In case the petitioner is aggrieved by any coercive action taken by the respondent authorities, it is always open to them to move the appellate authority for appropriate direction and it is certainly not open to them to invoke the extraordinary jurisdiction of the Court under Article 226 of the Constitution of India. When an effective alternate remedy is available under the Statute, the same has to be availed before knocking the doors of this Court under Article 226 of the Constitution of India for any interim relief as prayed for in this writ petition.

5.For the above said reasons, this Court finds that the writ petition is not maintainable and therefore, the same is

dismissed. No costs. Connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

msk

To

- 1.The Insurance Commissioner (NTA),
Appellate Authority (Hqrs.),
(All Divisions other than Medical Division),
ESIC Head Quarters Office,
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C.I.G.Marg,
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- 2.The Director cum Appellate Authority,
Employees State Insurance Corporation,
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- 3.The Deputy Director,
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Three Roads,
Salem-636 009
- 4.The Recovery Officer,
Employees State Insurance Corporation,
Sub Regional Office,
Salem-636 009

+1cc to Mr.G.Arul Murugan, Advocate SR.No.38637

+1cc to Mr.C.V.Ramachandramurthy, Advocate SR.No.38532

W.P.No.12107 of 2019

SSI (CO)
GMY (04/06/2019)