



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.05.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P(MD)No.12163 of 2019 and
WMP(MD).Nos.9135 and 9136 of 2019**

M/s. CNMS Sivakami Matric Higher Secondary School,
Pon Nagar, Chinnamanur, Theni District - 625 515,
Rep. by its Principal,
Mr.R.B. Kartijak. .. Petitioner

Vs.

The Deputy Director (NS III),
Sub Regional Office,
Employee's State Insurance Corporation,
2nd West Street, K.K. Nagar,
Madurai - 20. .. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records in proceeding No.57 -00-075569-000-1302/INS.III/490/18, dated 12.03.2019 on the file of the respondent and quash the same.

For Petitioner : Mr.C. Muthusaravanan
For Respondent : Mr.K.C. Ramalingam

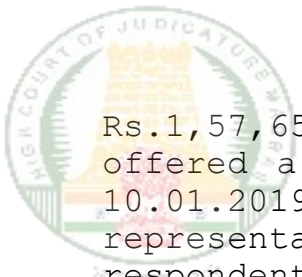
ORDER

This writ petition has been filed to call for the records in proceeding No.57 -00-075569-000-1302/INS.III/490/18, dated 12.03.2019 on the file of the respondent and quash the same.

2. Mr. K.C. Ramalingam, learned Standing Counsel takes notice for the respondent.

3. By consent of both the parties, this writ petition is taken up for final hearing at the stage of admission itself.

4. The case of the petitioner is that the petitioner school is governed by a Registered Society viz., Chinnamanur Nadar Munnetra Sangam and the said Sangam has its own by-laws and it is being managed by the Constituent Committee as per Tamil Nadu Cooperative Societies Registration Act. The President of the said Sangam is the Correspondent and the petitioner is the Principal of the said School. By the impugned order, dated 12.03.2019, the respondent directed the deceased T. Mariappan, who was the ex-correspondent of the school and died on 24.12.2018, to pay contribution of the respondent Corporation to the tune of



Rs.1,57,658/- for the period from 06/2017 to 7/2018 and they have offered a personal hearing to the said deceased Correspondent on 10.01.2019 by its letter dated 21.12.2018, and that as there was no representation by the petitioner School on 10.01.2019, the respondent has passed an ex-parte order dated 12.03.2019, thereby directed the ex-correspondent to pay the contribution within a period of 60 days, failing which recovery process will be initiated. Challenging the said order, the petitioner has filed the present Writ Petition.

5. The only ground on which the learned counsel for the petitioner sought to quash the impugned order is that when the issue as to whether the private educational institutions are covered by the provisions of ESI Act or not, in a batch of Writ Appeals in W.A.Nos.222 and 918 of 2013, etc. batch, the Hon'ble First Bench of this Court has granted an interim order in favour of the private schools and therefore, the petitioner is not liable to pay the contribution to the respondent.

6. When the similar issue arises for consideration before a Division Bench of this Court in **W.A.No.523 of 2018, dated 18.04.2018, (Saraswathi Ramachandra Matriculation Higher Secondary School Vs. State of Tamil Nadu) LAWS (MAD) 2018-4-507**, the Division Bench, by relying upon a 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 ESI contribution, has directed the petitioner therein to pay the contribution in 12 equal monthly instalments. Therefore, the submission of the learned counsel for the petitioner cannot be sustained. Following the above decision of the Division Bench of this court in W.A.No.523 of 2018, this Court is inclined to direct the petitioner school to pay the entire contributions due to be payable in 12 equal monthly instalments commencing from the month of June, 2019.

7. In view of the above, the petitioner school is directed to pay the entire arrears of contributions to the respondent in 12 equal monthly instalments commencing from the month of June, 2019 and further, the petitioner shall continue to pay the contribution to the respondent on regular basis.

8. With the above directions, this Writ Petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Vacation Officer

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To

The Deputy Director (NS III),
Sub Regional Office,
Employee's State Insurance Corporation,
2nd West Street, K.K. Nagar,
Madurai - 20.

+1CC TO MR.C.MUTHU SARAIVANAN, Advocate Sr. No. 66106

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GRC (CO)
TR (28.05.2019) 3P 3C