

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 3739 of 2020
and
W.M.P. No. 4417 of 2020

M/s. Stanes Matriculation School
Formerly Stanes Nursery & Primary School
Annur, Karlampalayam Village
Ellapalayam P.O.
Pogalur Via Coimbatore 641 697
Rep. by its Correspondent Mr. Glenn Croning ... Petitioner

-vs-

1. The State of Tamil Nadu
Rep. by its Principal Secretary
Labour and Employment Department
Fort St. George, Chennai - 600 009.
2. The Deputy Director (Insurance)
Employees State Insurance Corporation
(Sub Regional Office)
1897, Trichy Road, Panchdeep Bhavan
Ramanathapuram, Coimbatore - 641 045.
3. The Recovery Officer
Employees State Insurance Corporation
(Sub Regional Office)
1897, Trichy Road, Panchdeep Bhavan
Ramanathapuram, Coimbatore - 641 045.
4. The Branch Manager,
Union Bank of India,
Avinashi Road, Annur - 641 653. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records of the Third Respondent's prohibitory order dated 02.01.2020 in reference No.CBE/RECY/CP-3/56/113507/301 and to quash the same and to further direct the Fourth Respondent to resume the operation of the Petitioner's account No.334402010209678.

For Petitioner : Mr. B.Raviraja

For Respondents: Mr. D.Sathyaraj
Special Government Pleader (For R1)

Mr. G.Bharathwaj
Standing Counsel (For R2 & R3)

No appearance (for R4)

O R D E R
(through video conference)

Heard Mr. B.Raviraja, Learned Counsel for the Petitioner, Mr. D.Sathyaraj, Learned Special Government Pleader appearing for the First Respondent and Mr. G.Bharathwaj, Learned Standing Counsel appearing for the Second and Third Respondents, and perused the materials placed on record apart from the pleadings of the parties.

2. It is pointed out by the Learned Counsel for the Second and Third Respondents that the order No. CBE/RECY/CP-3/56/113507/301 dated 02.01.2020 passed by the Third Respondent, which is impugned in this Writ Petition, is a consequential order for recovery in furtherance to the order No. 56-00-113507-000-1301/INS.IV/SRO dated 11.06.2019 passed by the Second Respondent assessing the amount of contribution payable by the Petitioner under Section 45-A of the Employees' State Insurance Act, 1948 (hereinafter referred to as 'the Act' for short) and in the absence of any challenge to that parental order, the Petitioner cannot prosecute this Writ Petitioner for the relief claimed. He relies on the decisions of this Court in Saidapet Co-operative Milk Producers Society Ltd., -vs- Deputy Director, ESI Corporation Regional Officer (Tamil Nadu) (Order dated 04.08.2017 in C.M.A. No. 469 of 2015) and M/s. Hexaware Technology -vs- Commissioner, Employees State Insurance Corporation, Chennai (Order dated 30.10.2019 in W.P. No. 29677 of 2018) to buttress that proposition of law.

3. In view of the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to challenge the order No. 56-00-113507-000-1301/INS.IV/SRO dated 11.06.2019 passed by the Second Respondent by approaching the Employees' Insurance Court under Section 75 of the Act and he has also sent a confirmatory e-mail dated 01.09.2020 to that effect, which is placed on record. It is made clear that for the purpose of reckoning limitation for availing aforesaid remedy, the period from the

date of filing of the Writ Petition, viz., 13.02.2020, till today, viz., 01.09.2020, shall be excluded. It is needless to add here that the Petitioner is not precluded from making any application for interim relief including that related to enforcement of the order impugned in this Writ Petition, before the Employees Insurance Court in the said proceedings, and that no view is expressed by this Court on the correctness or otherwise on the merits of the claim made by the Petitioner in that regard.

4. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

Maya/vjt

To

1. The Principal Secretary
Labour and Employment Department
Fort St. George
Chennai - 600 009.
2. The Deputy Director (Insurance)
Employees State Insurance Corporation
(Sub Regional Office)
1897, Trichy Road, Panchdeep Bhavan
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+lcc to Mr.B.Ravi Raja, Advocate SR.No.28700

W.P. No. 3739 of 2020

RV(CO)
GMY(16/09/2020)



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