

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2020

CORAM

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

W.P. No. 11219 of 2020

Srishti Special School for Mentally Handicapped Children,
Represented by its Director cum Managing Trustee
Dr. S. Thenmozhi,
B-4, J.J. Nagar, Valayapathi Salai,
Mugappair East,
Chennai - 600 037

...Petitioner

-vs-

1. The Deputy Commissioner,
ESI Corporation, Panchdeep Bhavan,
No. 143, Sterling Road, Nungambakkam,
Chennai - 600 034.

2. The Recovery Officer,
ESI Corporation, Panchdeep Bhavan,
No. 143, Sterling Road, Nungambakkam,
Chennai - 600 034.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to refund the amount of Rs.3,24,386 that was attached from the Petitioner's bank account number: 805310110000159 in Bank of India, Mogappair Branch on 07.04.2014, with appropriate interest.

For Petitioner : Mr. Rajnish Pathiyil

For Respondents : Mr.S.P.Srinivasan, Standing Counsel

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O R D E R
(through video conference)

Heard Mr. Rajinish Pathiyil, Learned Counsel for the Petitioner and Mr. S.P.Srinivasan, Learned Standing Counsel, who takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for a direction to the Respondents to refund the sum of Rs. 3,24,386/- that was attached from the bank account no. 805310110000159 of the Petitioner in Bank of India, Mogappair Branch on 07.04.2014, with appropriate interest.

3. According to the Petitioner, since the number of persons employed in its establishment is less than 20 persons, the Employees' State Insurance Act, 1948 (hereinafter referred to as the 'Act' for short), would not apply and the Second Respondent had issued a notice No. TN/RECY/45(G)-51000922570001301 dated 23.06.2017 under Section 45-G of the Act, demanding the sum of Rs. 3,24,386/- from the Petitioner by attaching its bank account, which the Petitioner challenged in W.P. No. 29280 of 2017, but was dismissed by order dated 09.04.2018 on the mistaken premise that the Act applies to the Petitioner and that the ground now canvassed by the Petitioner that the number of persons employed was less than 20 had not been then brought to the notice of the Court.

4. When it was pointed out that it would not be possible to entertain this Writ Petition for the relief that has been claimed in view of the aforesaid order dated 09.04.2018 in W.P. No. 29280 of 2017 passed by this Court, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to file an application for review of that order along with an application to condone delay in filing the same. He has also filed a memo to that effect through e-mail dated 27.08.2020, which is placed on record.

Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Deputy Commissioner,
ESI Corporation, Panchdeep Bhavan,
No. 143, Sterling Road, Nungambakkam,
Chennai - 600 034.

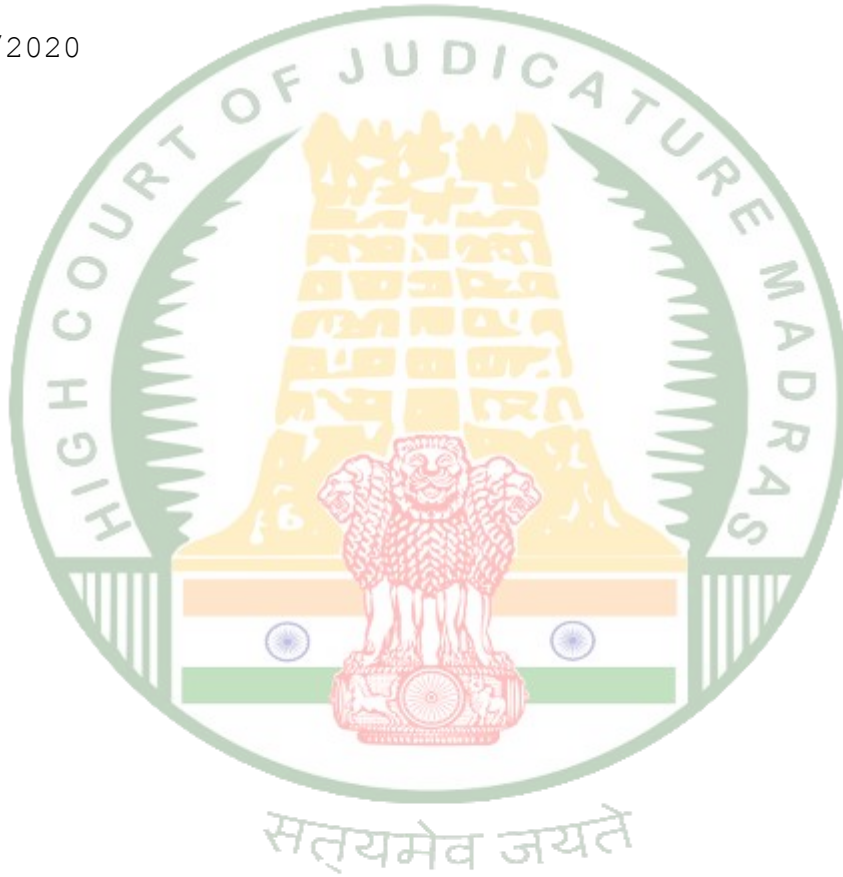
2. The Recovery Officer,
ESI Corporation, Panchdeep Bhavan,
No. 143, Sterling Road, Nungambakkam,
Chennai - 600 034.

+1cc to Mr.Rajnish Pathiyil, Advocate, S.R.No.28215

+1cc to Mr.S.P.Srinivasan, Advocate, S.R.No.28068

W.P. No. 11219 of 2020

SS(CO)
KKV/16/09/2020



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