



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.18317 of 2019

M/s. Ninety Nine Beedi Factory
Rep. by its Proprietor
Mr.K.Azhar,
8, Commissary Bazaar,
Vellore - 632 004.

... Petitioner

vs

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Labour and Employment (L1) Department,
Fort St.George,
Chennai - 600 009.

2. Employees State Insurance Corporation,
rep. by its Assistant Director,
Regional Office (Tamil Nadu)
143, Sterling Road,
Chennai - 600 034.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the 1st respondent to grant exemption from the provisions of the ESI Act, 1948 for the period between 10.01.2019 to 09.01.2020 as sought by the petitioner vide representation dated 25.09.2018.

For Petitioner : Mr.K.M.Aasim Shehzad
for M/s. BFS Legal

For Respondents : Mr.D.Suriyanarayanan,
Additional Government Pleader
for R1
Mr.K.Prabakar, for R2.

O R D E R

This writ petition is filed seeking for a direction to the first respondent to grant exemption from the provisions of the ESI Act, 1948, for the period between 10.01.2019 to 09.01.2020 by considering the representation of the petitioner dated 25.09.2018.



2. Whether the petitioner is entitled to get exemption or not, is the question to be considered and decided by the first respondent and therefore, this Court, at this stage, is not expressing any view on the merits of the claim made by the petitioner. Therefore, a positive mandamus as sought for by the petitioner cannot be issued except to the extend of issuing a direction to the first respondent to consider the representation of the petitioner said to have been made on 25.09.2018 and pass orders on the same on merits and in accordance with law.

3. Learned counsel appearing for the second respondent submitted that the petitioner has not filed any proof before this Court in support of their contention that the said representation was made before the first respondent.

4. In any event, as the first respondent has to consider and decide the merits of such claim, the petitioner can produce one more copy of the said representation before the first respondent so as to enable him to consider and decide the same.

5. Accordingly, without expressing any view on the merits of the claim made by the petitioner, this Writ Petition is disposed of, only with a direction to the petitioner to file one more copy of the representation dated 25.09.2018 along with the proof of filing the same earlier before the first respondent within a period of two weeks from the date of receipt of a copy of this order and with a further direction to the first respondent to consider the said representation and pass orders on merits and in accordance with law after hearing the second respondent as well within a period of eight weeks thereafter. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Principal Secretary,
Government of Tamil Nadu,
Labour and Employment (L1) Department,
Fort St.George,
Chennai - 600 009.



2. Assistant Director,
Employees State Insurance Corporation,
Regional Office (Tamil Nadu)
143, Sterling Road,
Chennai - 600 034.

+1 CC to Mr.K.Prabakar, Advocate sr 1902.
+1 CC to M/s. BFS Legal, sr 1182 (07/02/2020)

W.P.No.18317 of 2019

GP(CO)
SP(05/02/2020)