

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

WP NOS.518 & 527 OF 2021

AND

WMP NOS.580 & 584 OF 2021

Cherraans Institute of Health Science,
Rep. by its Correspondent,
Old No.278-A, Siruvani Main Road,
Telungupalayam Pirivu,
Coimbatore - 641 039.

... Petitioner in W.P.No.518 of 2021

S.M.S.College of Arts and Science,
Rep. by its Correspondent,
Mr.K.C.Palanisamy,
"Cheran Towers", No.78,
Arts College Road,
Coimbatore - 641 018.

... Petitioner in W.P.No.527 of 2021

Vs.

Employees State Insurance Corporation,
Sub Regional Office at
No.1897, Trichy Road,
Palaniappa Nagar, Sowripalayam Pirivu,
Ramanathapuram,
Coimbatore - 641 015.

सत्यमेव जयते ... Respondent in both W.Ps.

PRAYER IN WP NO.518 / 2021: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to call for the records in Proceedings dated 28.10.2020 in Reference No.56-0-111413-000-1305/INS.IV/SRO passed by the respondent and quash the same with a direction directing the respondent to give due opportunity by issuing fresh notice to the petitioner and determine the payment of ESI contribution for the petitioner's Educational Institution for the period from 01.11.2014 to 31.10.2019.

PRAYER IN WP NO.527 / 2021: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to call for the records in Proceedings dated 30.12.2019 in Reference No.56-00-110919-000-1303/INS.IV/SRO passed by the respondent and quash the same with a direction directing the respondent to give due opportunity by issuing fresh notice to the petitioner and determine the payment of ESI contribution for the petitioner's Educational Institution for the period from 01.10.2014 to 30.09.2019.

For Petitioner
(in both WPs') : Mr.P.Neethi Kumar

For Respondent : Mr.G.Bharadwaj
Standing Counsel

C O M M O N O R D E R

Challenging the order passed by the respondent / ESI Corporation under Section 45-A of the ESI Act, 1948, the present Writ Petitions have been filed.

2. It is well settled that against the order passed by the Original Authority under the ESI Act, 1948, there is an appeal remedy provided under Section 75 of the ESI Act, 1948, before the Employees' Insurance Court and without exhausting the alternative remedy, the petitioners have come before this Court on an apprehension that recovery proceedings will be initiated.

3. Therefore, liberty is granted to the petitioners to file an appeal before the Employees' Insurance Court, within a period of four weeks from today. Since there is no recovery action initiated by the respondent / ESI Corporation, it is expected that the recovery action can wait for a period of four weeks, till the appropriate petition in this regard is dealt with by the Employees' Insurance Court.

4. In fine, the petitioners are directed to prefer an appeal under Section 75 of the ESI Act, 1948, before the Employees' Insurance Court, within a period of four weeks from today. On such appeal being presented before the Employees' Insurance Court, the Employees' Insurance Court is directed to entertain the same, without insisting on the technicalities of limitations and consider the stay and waiver petitions to be filed as expeditiously as possible. A further direction is given to the Employees' Insurance Court to consider and dispose of the waiver petition as expeditiously as possible.

5. The Writ Petitions are disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

TK

To

Employees State Insurance Corporation,
Sub Regional Office at
No.1897, Trichy Road,
Palaniappa Nagar, Sowripalayam Pirivu,
Ramanathapuram, Coimbatore - 641 015.

+2cc to Mr.Waron & Sai Rams, Advocate, S.R.No.12724 & 12725.
+1cc to Mr.G.Bharadwaj, Advocate, S.R.No.12828.

SSN(CO)
CSR 26.03.2021

WP NOS.518 & 527 OF 2021
AND
WMP NOS.580 & 584 OF 2021

सत्यमेव जयते
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