



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.03.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **M.S.RAMESH**

W.P. (MD) No.6678 of 2021

and

W.M.P. (MD) No.5153 of 2021

WEB COPY

Malankara Catholic College,
represented by its Secretary,
Mariagiri,
Kaliakkavilai Post 629 153,
Kanyakumari District.

...Petitioner

Vs.

1.Employees' State Insurance Corporation,
Regional Corporation (Tamilnadu),
represented by its Regional Director,
143, Sterling Road,
Chennai 600 034.

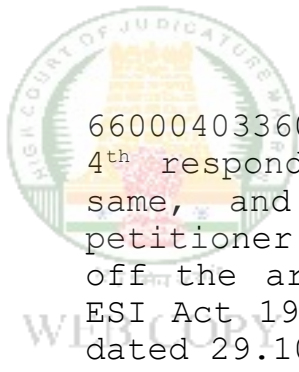
2.Employees' State Insurance Corporation,
Sub Regional Office
represented by its Joint Director,
Municipal Shopping Complex,
Salai Street,
Sindupoonthurai,
Tirunelveli 627 001.

3.The Assistant / Deputy Director,
Employees' State Insurance Corporation,
Sub Regional Office
Municipal Shopping Complex,
Salai Street,
Sindupoonthurai,
Tirunelveli 627 001.

4.The Recovery Officer,
Employees' State Insurance Corporation,
Panchdeep Bhawan, ESIC Complex,
Salai Street,
Vannarpettai,
Tirunelveli 627 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notices dated 29.01.2021 in No. 66-00-040336-000-1303 /SRO/TLI/INS/MEC/546/20, No.66-00-040336-000-1303/SRO/TLI/INS/ MEC/482/20 and No. 66000403360001303/121520201054/565/20 issued by the 3rd respondent and in



66000403360001303/CP/409293/565/2020 dated 22.02.2021 issued by the 4th respondent in respect of the petitioner college and quash the same, and consequently direct the respondents to consider the petitioner's representation, dated 12.01.2021 seeking to waive/write off the arrears of contribution, interest and damages, U/s 91C of ESI Act 1948 in terms of the order of the Full Bench of this Court dated 29.10.2020 and made in W.P.No.15405 of 2020.

For Petitioner : Mr.Anbu for
M/S.Father Xavier Associates
For Respondents : Mr.R.Ravikumar
Standing Counsel

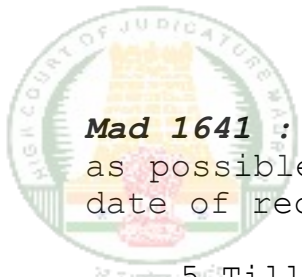
ORDER

The Hon'ble Full Bench of this Court in the case of **All India Private Educational Institutions Association Vs. the State of Tamilnadu** reported in **2020 SCC Online Mad 1641 : (2020) 5 CTC 93 (FB) : (2020) 3 LLJ 672**, while deciding the issue with regard to the coverage of educational institutions under the Employees' State Insurance Act, 1948, had made a strong recommendation that the provisions of Section 91 C of the ESI Act should be applied by the Corporation in considering the cases for reduction/waiver of pending arrears of the ESI contributions, insofar as the educational institutions are concerned.

2.The petitioner herein, which is an unaided educational institution, has also made an application under Section 91 C of the ESI Act on 12.01.2021 to the 3rd respondent herein, based on the recommendation made by the Hon'ble Full Bench and while such an application was pending, the respondents 3 and 4 have issued the impugned orders seeking for recovery of ESI contribution. Since certain recommendations have been made by the Hon'ble Full Bench to the Corporation for consideration of the requests made by the educational institutions for waiver of the ESI contributions and when the petitioner herein had also made an application in confirmation with such a recommendation, the respondent Corporation may not be justified in resorting to coercive steps of recovery, without considering the petitioner's request.

3.Further, if the respondents are directed to consider the petitioner's request for waiver within the time limit and thereafter grant liberty to the respondent to proceed in accordance with law, the ends of justice could be secured.

4.In the light of the above observations, there shall be a direction to the 3rd respondent to consider the petitioner's representation dated 12.01.2021 on its own merits and in accordance with law, in the light of the decision of the Hon'ble Full Bench of this Court in the case of **All India Private Educational Institutions Association Vs. the State of Tamilnadu** reported in **2020 SCC Online**



Mad 1641 : (2020) 5 CTC 93 (FB) : (2020) 3 LLJ 672, as expeditiously as possible, in any event, within a period of three months from the date of receipt of a copy of this order.

5. Till such consideration, the respondents are restrained from initiating any coercive steps against the petitioner institution, for recovery of the arrears of their contribution under the ESI Act.

6. This writ petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to M/s.FATHER XAVIER ASSOCIATES, Advocate (SR-13644[F] dated 25/03/2021)

+1 CC to M/s.R.RAVI KUMAR, Advocate (SR-15039[F] dated 01/04/2021)

W.P. (MD) No.6678 of 2021
24.03.2021

SMV(CO)
KB(24.04.2021) 3P 3C