



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD) No.6840 of 2021

and

W.M.P. (MD) No.5252 of 2021

Malankara Catholic College,
Represented by its Secretary,
Mariagiri.

... Petitioner

Vs.

1.Employees' State Insurance Corporation,
Regional Corporation (Tamil Nadu),
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.

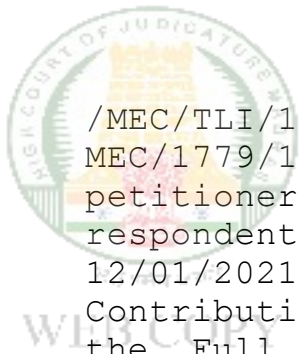
3.The Assistant/Deputy Director,
Employees' State Insurance Corporation,
Sub-Regional Office,
Represented by its Joint Director,
Municipal Shopping Complex,
Salai Street, Sindupoonthurai,
Tirunelveli - 627 001.

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, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notices, dated 17.12.2019, in No.66-00-040336-000-1303/C19/SRO/INS

<https://hcservices.ecourts.gov.in/hcservices/>



/MEC/TLI/1046/19 and in No.66000403360001303/12420191010/MEC/1779/19, issued by the 3rd respondent, in respect of the petitioner college and quash the same, and consequently direct the respondents to consider the petitioners representation dated 12/01/2021, seeking to waive / write off the arrears of Contribution, u/s 91C of ESI Act, 1948, in terms of the order of the Full Bench of this Honble High Court of Madras, dated 29.07.2020 in the batch of writ petitions in W.P. No.34246 of 2019, as reported in 2020 (5) CTC 93 (FB) and the order of the High Court of Madras, dated 29.10.2020 and made in W.P. No.15405 of 2020.

For Petitioner : Mr.John Kennedy.FR.V
For M/s.Father Xavier Associates.

For Respondents : Mr.I.Pinaygash,
Standing Counsel.

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.The case of the petitioner/college is that the Government of Tamil Nadu issued G.O.(Ms) No.237, Labour and Employment, (K1) Department, dated 26.11.2010, extending the ESI coverage to unaided educational institutions. The petitioner is making ESI contribution from October 2020. The third respondent issued the impugned notices, dated 17.12.2019, calling upon the petitioner to pay the contributions for the prior period also. The petitioner sent a representation dated 12.01.2021 objecting the same to the third respondent. Since the same was not considered, the present writ petition has been filed.

3.The learned counsel for the petitioner submitted that as per 91-C of the Employees' State Insurance Act, the respondent can waive/write off the arrear payments of contribution, interest and damage of the petitioner. Hence, the petitioner made a representation to the third respondent on 12.01.2021 to avail such benefits pursuant to the impugned recovery notices. It is not considered till date, he prays this Court to direct the respondents to dispose of the same.

4.Considering the limited prayed as sought for by the petitioner, without going into the merits of the petitioner's case, this Court directs the third respondent to consider the petitioner's representation dated 12.01.2021 on merits and in accordance with law and dispose of the same within a period of twelve weeks from the date of receipt of a copy of this order.



5.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.

To:

1.The Assistant/Deputy Director,
Employees' State Insurance Corporation,
Sub-Regional Office,
Represented by its Joint Director,
Municipal Shopping Complex,
Salai Street, Sindupoonthurai,
Tirunelveli - 627 001.

+1 CC to M/s.FATHER XAVIER ASSOCIATES, Advocate (SR-13645[F]
dated 25/03/2021)

+1 CC to M/s.I.PINAYGASH, Advocate (SR-13720[F] dated
25/03/2021)

W.P(MD)No.6840 of 2021
25.03.2021

SVN(CO)
TR(21.04.2021) 3P 4C