



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.17480 of 2021

and

W.M.P. (MD) .Nos.14342 and 14343 of 2021

Mogul Educational and Charitable Trust

Represented by its Chairman

Mr. Mohamed Eakieem,

S/o. M. Paharudeen,

357C, Opp Naidu Hospital,

Railway Station Road,

Kottar, Nagercoil - 629 002.

... Petitioner

Vs.

1. The Regional Director,

Employees State Insurance Corporation Regional Office,

143, Sterling Road, Nangambakkam,

Chennai - 600 034.

2. The Assistant Director,

Employees' State Insurance Corporation,

Panchdeep Bhavan, ESIC Complex, Salai Street,

Vannarapettai,

Tirunelveli - 627003

3. The Recovery Officer,

Employees' State Insurance Corporation,

Panchdeep Bhavan, ESIC Complex, Salai Street,

Vannarapettai,

Tirunelveli - 627003.

4. The Branch Manager,

Indian Bank,

Chembagaramanpudur Branch,

Main Road, Chembagaramanpudur,

Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned garnishee order in No.66-00-040453-000-1399/RRC/SRO/TLI dated 14.12.2020 and signed by the third respondent on 16.12.2020, quash the same and consequently directing the respondents to consider the representation of the petitioner dated 05.08.2021 seeking waiver as strongly recommended by the



Hon'ble Full Bench of this Court directing the ESI Authorities to invoke Section 91 C of the Act for giving waiver to the private institutions in so far as the arrears of ESI Contribution is concerned.

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For Petitioner : Mr. RM. Arun Swaminathan
For Respondents : Mr. N. Dilip Kumar
Standing Counsel
for R1 to R3
R4- No appearance

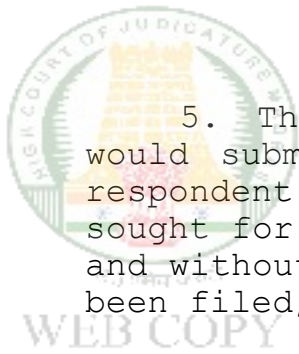
ORDER

This Writ Petition is filed for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned garnishee order in No.66-00-040453-000-1399/RRC/SRO/TLI dated 14.12.2020 and signed by the third respondent on 16.12.2020, quash the same and consequently directing the respondents to consider the representation of the petitioner dated 05.08.2021 seeking waiver as strongly recommended by the Hon'ble Full Bench of this Court directing the ESI Authorities to invoke Section 91 C of the Act for giving waiver to the private institutions in so far as the arrears of ESI Contribution is concerned.

2. According to the petitioner, the respondent has passed the impugned garnishee order as against the petitioner institution without giving an opportunity of being heard. The petitioner has filed the writ petition challenging the said garnishee order in view of the judgment of the Hon'ble Full Bench of this Court directing the ESI Authorities to invoke Section 91 C of the Act for giving waiver to the private institutions in so far as the arrears of ESI Contribution is concerned.

3. According to the petitioner, the impugned order has been passed on 14.12.2020 under Section 45-G of the Employees State Insurance Act and certificate to the Recovery Officer has been issued under Section 45 C of the Employees State Insurance Act, 1948. According to the petitioner, no notice has been issued to the petitioner. The petitioner was asked to receive the impugned garnishee order passed by the recovery officer on 14.12.2020 whereby the recovery officer under Section 45-G of the Employees State Insurance Act, 1948 has passed attachment order as against the Garnishee Bank and challenging the said order, the present Writ Petition has been filed.

4. The learned counsel for the petitioner raised the ground that the respondent has passed the impugned order, in violation of the principles of natural justice.



5. The learned counsel for the respondents on instructions would submit that the writ petitioner had made a request to the respondent that they are ready to settle the amount, however they sought for three months time for the payment of the interest portion and without disclosing this fact, the present writ petition has now been filed, challenging the impugned order before this court.

6. The learned counsel for the petitioner, after discussing with the petitioner, has made a request before the Court seeking permission to settle the entire determined amount under section 45-G of the ESI Act in 12 equal monthly incitements.

7. The learned counsel for the respondents, though has agreed for payment on installments, opposed for the grant of 12 months time.

8. However, taking into consideration the pandemic situation and the request of the petitioner being reasonable, this Court is inclined to pass the order as follows:

i) the petitioner shall pay the entire determined amount as claimed by the respondent under Section 45 G of the ESI Act in 12 equal monthly installments to the third respondent.

ii) Every installments shall be paid on or before the 10th of every succeeding month.

iii) the first installment shall commence from 1st November, 2021

iv) if any default in payment of the installment amount is made, liberty is granted to the respondent to proceed in accordance with law

v) During the above period, the impugned order passed by the third respondent shall be kept in abeyance.

9. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

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

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Indian Bank,
Chembagaramanpudur Branch,
Main Road, Chembagaramanpudur,
Kanyakumari District.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-31563[F] dated 07/10/2021)

W.P (MD) No.17480 of 2021

and

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RD/PM (01.11.2021) 4P 6C