



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2022

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.NOS.1082 AND 1099 OF 2022

AND

WMP NOS.1151 AND 1160 OF 2022

M/s.K.K.College of Pharmacy,
rep. By its Principal - Dr.A.Meena,
No.1/161, Sankaralinganar Road,
Gerugambakkam, Chennai - 600 122. Petitioner in both W.Ps

Vs.

The Deputy Director,
Regional Office (Tamil Nadu),
Employees' State Insurance Corporation,
143, Sterling Road, Chennai - 600 034.
..... Respondent in both W.Ps

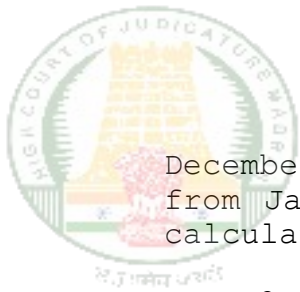
PETITIONs filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the respondent in Proceedings No.TN/Ins.VIII/51-00-103746-000-1305/C18 Adhoc-35/19 and 1555/13, quash its order nil received on 25.12.2019 and 18.10.2019 and consequently direct the respondent to provide reasonable opportunity to petitioner and hold enquiry in terms of Section 45A of the ESI Act.

For Petitioner : Mr. A.Saravanan

For Respondent : Ms.S.Jeyakumari
Standing Counsel

C O M M O N O R D E R

The petitioner, a College of Pharmacy, is before this Court being aggrieved by the demand made on the college by the respondent Corporation. Admittedly, the college is governed by the provisions of the Employees' State Insurance Act, 1948. Notice was issued on 06.09.2013 and 02.05.2019 demanding contribution from the petitioner college for the periods from



December, 2010 to July 2013, July, 2013 to December, 2016 and from January, 2017 to February, 2019 by enclosing statements of calculation.

2. According to the petitioner college that the respondent Corporation has arbitrarily concluded the contribution payable on the basis of the number of staff employed by the College, which was factually incorrect.

3. This Court is unable to entertain these Writ Petitions for the simple reason that when opportunities were afforded to the petitioner college, prior to the passing of the impugned orders, they did not avail the same. On the other hand, having missed the opportunities without any sufficient cause, they cannot challenge the action of the Corporation directly by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4. Even otherwise, if the petitioner is aggrieved by any action of the respondent Corporation for not providing them sufficient opportunity, it is always open to them to avail alternate remedies provided under the Act, but it is certainly not open to the petitioner to bypass the effective alternate remedy and approach this Court directly. When statute provides appellate remedies, the same have to be exhausted before invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. This Court further is of the view that the facts as stated in the affidavits filed in support of the Writ Petitions are completely disjointed, jumbled up and did not make any legal sense for this Court to entertain this Writ Petition even for a second. The affidavit has been so recklessly drafted and this Court thought of initially to impose exemplary costs upon the petitioner, but considering the mitigating circumstances of the pandemic time, this Court refrain from imposing any costs.

6. These Writ Petitions are accordingly dismissed, at the admission stage. No costs. Connected Miscellaneous Petitions are also dismissed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

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

+1cc to M/s.A.Saravanan, Advocate, S.R.No.4583

+1cc to M/s.S.Jayakumari, Advocate, S.R.No.5542

W.P.Nos.1082 and 1099 of 2022
and
WMP Nos.1151 and 1160 of 2022

KSM(CO)
SU(16/02/2022)