



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.7007 of 2022
and W.M.P.Nos.7040, 7042 & 7044 of 2022

St.Joseph Matric Higher Secondary School
represented by its Correspondent,
Rev.Bro.K.Sagayaraj
Vedhachala Nagar,
Chenglpattu - 603 001.

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
represented by its Principal Secretary,
Labour and Employment Department,
Fort St.George,
Chennai - 600 009.
- 2.E.S.I - Regional Corporation (Tamil Nadu)
represented by its Regional Director,
143, Sterling Road,
Chennai - 600 034.
- 3.Regional Office,
Employees State Insurance Corporation,
represented by its Deputy Director,
Panchdeep Bhawan,
143, Sterling Road,
Chennai - 600 034.

... Respondents/Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India, to issue writ of Certiorarified Mandamus to call for the records pertaining to the impugned order, dated 23.02.2022 in No.VIII/51-00-109965-000-1302/C18 Adhoc - 1002/20, on the file of the third respondent in respect of the petitioner school and quash the same, directing the respondents to waiver of arrears on omitted wages as inapplicable to the petitioner.

For Petitioner: Dr.Francis Xavier Arul Raj
Senior Counsel
for M/s.Father Xavier Associates



For R1 : Mr.S.Prabhakaran
Government Advocate

For R2 & R3 : Mr.G.Baradwaj (ESI)

WEB COPY

O R D E R

This writ petition has been filed to call for the records pertaining to the impugned order, dated 23.02.2022 in No.VIII/51-00-109965-000-1302/C18 Adhoc - 1002/20, on the file of the third respondent in respect of the petitioner school and quash the same, directing the respondents to waiver of arrears on omitted wages as inapplicable to the petitioner.

2.Brief facts of the case:

The petitioner school was established in the year 1969 and administered by Congregation of "The Brothers of St.Gabrie"" and registered as a society, bearing Registration S.No.209 of 1993, in the name and style of "The Brothers Of Saint Garbriel - Tamil Nadu." The writ petitioner school is an unaided educational institution, it is permitted to collect fees from the students and the respondents have issued recovery proceedings for payment of contribution interest of Rs.29,34,484/- as per the G.O.Ms.No.237 Labour and Employment, (K1) Department, dated 26.11.2010. Hence, the writ petitioner.

3(a).The learned counsel for the petitioner would submit the petitioner school is an unaided educational institution and that the Government of Tamil Nadu has issued a G.O.Ms.No.237 Labour and Employment,(K1) Department, dated 26.11.2010, extending ESI coverage to unaided/self-financing educational institutions and the third respondent has also allotted a code for the petitioner School in Code No.51001099650001302 for the said coverage. Aggrieved over the same the petitioner has filed a petition W.P.No.19397 of 2014 and this Court was pleased to grant interim order dated 22.07.2014 and writ petition was tagged along with W.A.Nos.1233 & 1234 of 2011 and the Hon'ble Division Bench of this Court was pleased to grant interim orders till the disposal of the Jaibir Singh case pending reference, in the Supreme Court, as report in 2005 (5) SCC 1.

3(b).Further, he would submit that the third respondent had issued impugned notice dated 28.10.2020 in No.TN/INS.VIII/51-00-109965-000-1302/C-18 Adhoc 1002-20 to pay an amount of Rs.17,56,755/- for the period from July, 2013 to December 2016 and also issued another notice on the very same day to pay a total amount of Rs.22,97,295/- for the period from January 2017 to September 2020 and directed the petitioner's School to submit the relevant records on



20.11.2020. Challenging the above said proceedings, the petitioner's school has filed a petition in W.P.No.18909 of 2020 and this Court has given a direction to the ESI Corporation. Aggrieved over the same, ESI Corporation has preferred an appeal in W.A.No.1526 of 2021 and the same is still pending. The third respondent has issued show cause notice dated 19.08.2021 in respect of the contribution of Rs.17,56,755/- and Rs.22,97,295/- and directed the petitioner to appear on 22.11.2021 as per the direction of this Court in W.P.No.18909/2020. Therefore, on 07.12.2021 and 21.01.2021 the petitioner's school has appeared and furnished relevant documents. The third respondent issued another notice under C-18 Actual and Amended, dated 07.01.2022 in No.VIII/51-00-109965-000-1302, for contribution of Rs.29,34,484/- for the period from July 2013 to December 2020. The third respondent has issued order under Section 45A, dated 23.02.2022, which was received by the petitioner on 26.02.2022 in No.VIII/51-00-109965-000-1302/C18 Adhoc-1002/20 for a contribution of Rs.29,34,484/- for the period from July 2013 to December 2020, which includes contribution on omitted wages, construction, maintenance and repairs of fixed property and fixture.

3(c).Further, he would submit that the petitioner's School is ready and willing to settle the amount by way of 12 equal monthly installments. According to the petitioner, the payment of the said amount will be the subject to the order being passed in the writ appeal filed by the ESI Corporation.

4.The learned counsel for the respondents would submit that they has no serious objection for payment of aforesaid amount by way of installments.

5.Heard the learned counsel on either side and perused the materials placed on record.

6.In view of the undertaken given by the petitioner that the amount will be paid by way of 12 equal monthly installments, this Court is inclined to pass the following order:

The petitioner's School is directed to pay the arrears of contribution amount of Rs.29,34,484/- in ten equal monthly installments, commences from 01.04.2022 and also directed to pay the aforesaid amount on or before 10th day of every succeeding English calender month. If any default on the side petitioner regarding the payment, the respondents are permitted to proceed in accordance with law.



7. With the above directions, this Writ petition is disposed of. No costs. In the meantime impugned order dated 23.02.2022 in No.VIII/51-00-109965-000-1302/C18 Adhoc - 1002/20, on the file of the third respondent is kept in abeyance. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Dua
To

1. The Principal Secretary,
Government of Tamil Nadu,
Labour and Employment Department,
Fort St. George, Chennai - 600 009.

2. Regional Director,
E.S.I - Regional Corporation (Tamil Nadu)
143, Sterling Road,
Chennai - 600 034.

3. The Deputy Director, Regional Office,
Employees State Insurance Corporation,
Panchdeep Bhawan,
143, Sterling Road,
Chennai - 600 034.

+2 ccs to M/s. Father Xavier Associates, Advocate Sr.NO. 26943
+1 cc to Mr. G. Baradwaj, Advocate Sr.NO. 20749
+1 cc to Government Pleader Sr.NO. 20651

W.P.No. 7007 of 2022
and W.M.P.Nos. 7040, 7042 & 7044 of 2022

SVI (CO)
A.SK(13/04/2022)