



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.Nos.24200 and 24203 of 2021 and
W.M.P.Nos.25526 & 25528 of 2021

Kalakshetra Foundation,
(Employer No.51001113920000999),
Rep. by its Director,
Kalakshetra Road, Thiruvannamipur,
Chennai 600 041.

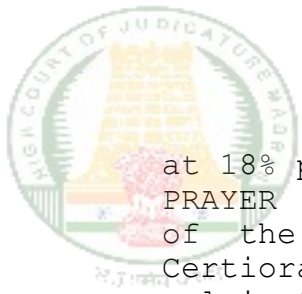
... petitioner in both W.Ps

Vs.

1. Authorised Officer/Deputy Director,
Employees' State Insurance Corporation,
ESI Regional Office (Tamil Nadu),
143, Sterling Road, Nungambakkam,
Chennai 600 034.
2. The Recovery Officer,
Employees' State Insurance Corporation,
ESI Regional Office (Tamil Nadu),
143, Sterling Road, Nungambakkam,
Chennai 600 034.
3. Additional Commissioner and Regional Director,
Employees' State Insurance Corporation,
ESI Regional Office (Tamil Nadu)-cum-
Appellate Authority,
143, Sterling Road, Nungambakkam,
Chennai 600 034.

...Respondents in both W.Ps

PRAYER in W.P.No.24200 of 2021:Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, to call for the records of the first respondent pertaining to the Order Ref.No.51001113920000999/31120202057/Ins-v dated 27.07.2020, culminating in the Order/Notice Ref No.TN/D-18/INS-V/51-00-111392-000-0999 dated 24.06.2021 and Order Nos.Ref.No.TN/INS-V/51-00-111392-000-0999 dated 24.06.2021, of the first respondent and to quash the same and consequently, direct the respondents to refund/return to the petitioner a sum of Rs.9,22,880/- (Rupees Nine Lakhs Twenty Two Thousand Eight Hundred and Eighty Only) together with interest



at 18% per annum from 06.10.2020 till date of payment.

PRAYER in W.P.No.24203 of 2021:Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, to call for the records of the third respondent culminating in the Order No.TN/Ins-V/51-00-111392-000-0999 dated 29.09.2021 demanding damages of Rs.5,29,815/- and to quash the same.

In both W.Ps.

For petitioner : Mr.Manoj Menon for
M/s.Menon

For Respondents : Mr.K.Prabakar

COMMON ORDER

These two writ petitions have been filed by the petitioner Foundation to call for the records of the first respondent pertaining to the Order Ref.No.51001113920000999/ 31120202057/ Ins-v dated 27.07.2020, culminating in the Order/Notice Ref No.TN/D-18/INS-V/51-00-111392-000-0999 dated 24.06.2021 and Order Nos.Ref.No.TN/INS-V/51-00-111392-000-0999 dated 24.06.2021, of the first respondent and to quash the same and consequently, direct the respondents to refund/return to the petitioner a sum of Rs.9,22,880/- (Rupees Nine Lakhs Twenty Two Thousand Eight Hundred and Eighty Only) together with interest at 18% per annum from 06.10.2020 till date of payment and to call for the records of the third respondent culminating in the Order No.TN/Ins-V/51-00-111392-000-0999 dated 29.09.2021 demanding damages of Rs.5,29,815/- and to quash the same.

2. Although an appeal provision is available in the ESI Act, the petitioner Foundation has chosen to directly approach this Court bypassing the effective alternative remedy .

3. According to the learned counsel for the petitioner, the order of levy passed by the respondent Corporation suffered from ex-facie illegality as no opportunity has been afforded to the petitioner. Therefore, the petitioner is constrained to approach this Court directly. According to the learned counsel, the order passed by the Authority is in excess of jurisdiction and also violative of Article 14 of the Constitution of India.

4. When the learned counsel was confronted by this Court in regard to the efficacious remedy available by way of an appeal under the relevant statute, the learned counsel originally submitted at the time of admission that the orders passed by the authority had not been made available and not communicated to the petitioner and therefore, the petitioner was constrained to



5. Notice was ordered. In response to the notice, Mr.K.Prabakar, learned counsel appeared on behalf of the respondents and filed a detailed counter affidavit.

7. At this, the learned counsel for the petitioner would request this Court to give liberty to the petitioner to avail the remedy provided under Section 75 of the ESI Act. According to the learned counsel, in view of the delay in approaching the competent Court, the petitioner's application may not be entertained. The learned counsel therefore, requested this Court to pass some directions.

9. In the said circumstances, this Court is not inclined to give any direction merely because the petitioner has approached this Court on a wrong premise that these writ petitions would be entertained in the circumstances explained in the affidavits filed in support of these writ petitions.

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



ground that the alternative remedy is available under the relevant statute. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsk

To

1. The Authorised Officer/Deputy Director,
Employees' State Insurance Corporation,
ESI Regional Office (Tamil Nadu),
143, Sterling Road, Nungambakkam,
Chennai 600 034.
2. The Recovery Officer,
Employees' State Insurance Corporation,
ESI Regional Office (Tamil Nadu),
143, Sterling Road, Nungambakkam,
Chennai 600 034.
3. The Additional Commissioner and Regional Director,
Employees' State Insurance Corporation,
ESI Regional Office (Tamil Nadu)-cum-
Appellate Authority,
143, Sterling Road, Nungambakkam,
Chennai 600 034.

+2cc to Mr.K.Prabakar , Advocate, S.R.No.1046, 1047
+1cc to the Government Pleader, S.R.No.1379

W.P.Nos.24200 and 24203 of 2021 and
W.M.P.Nos.25526 & 25528 of 2021

GPL(CO)
CT 28/01/2022