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W.P.No.27059 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.27059 of 2013

and

M.P.Nos.1 & 2 of 2013

M.A.R. College of Engineering and Technology,
Rep. by its Chairman,
Boothagudi Village,
Viralimalai,
Pudukottai District.

..... Petitioner

-Versus-

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Labour & Employment Department,
Fort St. George,
Chennai 600 009.

2.The Sub-Regional Office,
Employees State Insurance Corporation,
ESI Corporation 2nd West Street,
K.K.Nagar, Madurai 625 020.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to
to issue a Writ of Certiorari calling for the records of the 1st respondent
pertaining to G.O.Ms.No.237, Labour and Employment (K1) dated 26th
November, 2010 and published at page 879 of Part II, Section 2 of the Tamil



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Nadu Government Gazette No.51, dated 29.12.2010 and the letter of the 2nd respondent No.57/00/071819/000/1304/Ins.II/SRO/MDU/656/13 dated 28.08.2013 and to quash the same.

For Petitioner : *Mr.M.Palani*

For Respondents : *Mr.J.C.Durai Raj,*
AGP for R1

Mr.C.V.Ramachandramurthy for
R2

ORDER

This writ petition challenges the Government Order of the 1st respondent in G.O.Ms.No.237, Labour and Employment (K1) dated 26th November, 2010 and the letter of the 2nd respondent No.57/00/071819/000/1304/Ins.II/SRO/MDU/656/13 dated 28.08.2013 whereby the provisions of the Employees' State Insurance Act have been extended to the Private Educational Institutions run by individuals, trusts, societies or other organizations wherein twenty or more persons are employed or were employed on any day of the preceding twelve months, with effect from the date of public of the notification.

2. The very same issue was a subject matter of challenge before a Full Bench of this Court in **All India Private Institutions Association v. State of Tamil Nadu [2020 (5) CTC 93]** wherein the Full Bench was pleased to uphold as follows:-



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“134. To sum up, we answer the questions of reference as below:-

(i) The decision regarding the validity of the impugned notification issued under Section 1(5) of the ESI Act could well have been taken by the Division Bench and the postponement of the same pending decision of the reference in Jai Bir Singh (paragraphs 38, 41, 42 and 44 in particular) by the Larger Bench was not warranted;

(ii) The answer to question No.(i) is in the negative and hence, question No.(ii) does not require resolution. However, we are of the view that the orders of the Division Bench dated 09.06.2015 and 16.06.2015 are only in the nature of interim orders;

(iii) The ESI Act can very well treat the private unaided educational institutions as 'establishments' within the meaning of the said Act and the term 'otherwise' has clearly been placed to specify that genus of establishments is not restricted to those organisations, which are industrial, commercial or agricultural only, but also includes organisations like educational institutions;

(iv) There is no discrimination between the private unaided educational institutions and the public and government aided private educational institutions,



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pursuant to the issuance of the notification No.II
2/LE/52/2013, dated 02.01.2013 ; and

(v) As far as question Nos.(v) and (vi) are
concerned, no amendment is required to be made by the
State or Central Government to implement the
impugned notification.”

3. In view of the aforesaid judgement of the Full Bench of this Court,
nothing further remains to be adjudicated by this court. This writ petition is
dismissed accordingly. The petitioner shall be given liberty to explain its case
before the authorities in the light of the judgement of the Full Bench of this
Court cited supra. No costs. Consequently, connected MPs are closed.

05..06..2023

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

To

- 1.The Principal Secretary, Government of Tamil Nadu,
Labour & Employment Department, Fort St. George, Chennai 600 009.
- 2.The Sub-Regional Office, Employees State Insurance Corporation,
ESI Corporation 2nd West Street, K.K.Nagar, Madurai 625 020.



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V.LAKSHMINARAYANAN, J.

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