



WEB COPY



W.P.No.22383 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22383 of 2023

And

W.M.P.No.21778 of 2023

S.Vaithiyanathan

... Petitioner

Vs.

1.Employees State Insurance Corporation,
Rep. by its Deputy Director,
Sub Regional Office,
Salem – 39/57,
Theerthamalai Vaniga Valagam,
Three Roads, Salem – 636 009.

2.The Recovery Officer,
Employees State Insurance Corporation,
Sub Regional Office,
Salem – 39/57,
Theerthamalai Vaniga Valagam,
Three Roads, Salem – 636 009.

3.The Assistant Manager,
The City Union Bank Ltd.,
Jayamkondam Branch,
No.51, Sannathi Street,
Jayamkondam – 621 802.
Ariyalur District.

4.The Branch Manager,
Indian Bank,
No.88, Mutt Street,
Dharasuram,
Kumbakonam – 612 001.

... Respondents



W.P.No.22383 of 2023

Prayer:

WEB COPY

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the impugned orders passed by the second respondent dated 17.06.2022 No.SLM/Recy/CP4(PO)/63-000/97119-000-0999 and another order passed on 6.07.2023 No.SLM/Recy/CP4(PO)/63-000/97119-000-0999 and quash the same, consequently direct the respondents 3 and 4 to de-freeze the accounts of the petitioner with their respective banks.

For Petitioner : Mr.M.R.Jothimanian
for Mr.K.Balu

For Respondents : Ms.S.Jayakumari for R1 and R2
Standing Counsel for ESI

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the impugned orders passed by the second respondent dated 17.06.2022 No.SLM/ Recy/CP4(PO)/63-000/97119-000-0999 and another order passed on 06.07.2023 No.SLM/Recy/CP4(PO)/63-000/97119-000-0999 and quash the same, consequently direct the respondents 3 and 4 to de-freeze the accounts of the petitioner with the respective



W.P.No.22383 of 2023

banks.

WEB COPY

2.The case of the petitioner is that the petitioner is a registered contractor and licence has been granted for doing unskilled work vide licence No.69/2016 dated 18.10.2016 in the company namely, MEC Limited and the same was renewed on 27.12.2016. From October, 2016 to December, 2017 the petitioner engaged unskilled workers for supply of man power as per the award of contract of MEC Limited and the petitioner paid the ESI amount as per the ESI Regulations for the workers with his contract. But, after December, 2017 no work was allotted and the petitioner's contract was stopped. Whiles, the petitioner received a notice on 10.12.2018 from the first respondent for the non – payment of contribution and the petitioner submitted his reply. However, the second respondent issued a notice of demand dated 31.07.2019. The petitioner submitted his reply for the said notice also and the petitioner was on the premise that the entire proceedings were closed, however, he received the impugned orders. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that after December, 2017 no work was allotted to the petitioner and



W.P.No.22383 of 2023

the contract was stopped. Even then the ESI corporation has proceeded against the petitioner and has passed order and the same was not communicated to the petitioner, except the impugned prohibitory order. The learned counsel on instructions, further submitted that the petitioner is ready to deposit 50% of the amount demanded in impugned order dated 06.07.2023 and this Court may permit the petitioner to raise all the grounds before the original authority and issue direction to the original authority to recall the order and to pass fresh order.

4.The learned standing counsel appearing for the respondents 1 and 2 raise no serious objection.

5.In view of the above, the impugned orders passed by the second respondent dated 17.06.2022 and 06.07.2023 are set aside and the matter is remanded back to the respondents 1 and 2 or the Authorized Officer for fresh consideration. The petitioner shall deposit 50% of the amount demanded in impugned order dated 06.07.2023 i.e., 50% of Rs.9,32,309/- before the second respondent, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made by the petitioner, the



W.P.No.22383 of 2023

respondents 1 and 2 or any Authorized Officer shall hear the petitioner and pass fresh orders after providing opportunity to the petitioner.

6.The writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

28.07.2023

pri
Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

To

1.Employees State Insurance Corporation,
Rep. by its Deputy Director,
Sub Regional Office,
Salem – 39/57,
Theerthamalai Vaniga Valagam,
Three Roads, Salem – 636 009.

2.The Recovery Officer,
Employees State Insurance Corporation,
Sub Regional Office, Salem – 39/57,
Theerthamalai Vaniga Valagam,
Three Roads, Salem – 636 009.

3.The Assistant Manager,
The City Union Bank Ltd.,
Jayamkondam Branch,
No.51, Sannathi Street,
Jayamkondam – 621 802.
Ariyalur District.

4.The Branch Manager,

5/6



W.P.No.22383 of 2023

Indian Bank,
No.88, Mutt Street,
Dharasuram,
Kumbakonam – 612 001.

M.DHANDAPANI,J.
pri

W.P.No.22383 of 2023
And
W.M.P.No.21778 of 2023



WEB COPY



W.P.No.22383 of 2023

28.07.2023