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W.P. No.35197 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.35197 of 2022 and
W.M.P.No.34666 of 2022

M/s Jaya Matriculation School
(Under Management of Jaya Educational Trust)
Rep. by its Managing Trustee
No.1, 3rd Cross Street, Krishnapuram
Thiruninravur
Thiruvallur District - 602 024. .. Petitioner

VS

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

2. Employees' State Insurance Corporation
Rep. by its Deputy Director
143, Sterling Road, Panchdeep Bhavan
Chennai - 600 034. .. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 29.06.2022 bearing No.TN/Ins VIII/No-51-00-101275-000-1302/C18 Adhoc-441/13 passed by Employees' State Insurance Corporation the second respondent herein and to quash the same and further direct the second respondent to waive/write off the amount of past contributions under Section 91-C of the ESI Act, 1948.



W.P. No.35197 of 2022

For Petitioner : Mr.P.Muthusamy
For Respondents : Ms.M.Jayanthy
Additional Government Pleader
for respondent 1

Mr.S.Jayakumar
Standing Counsel
for respondent 2

ORDER

This writ petition has been filed challenging order dated 29.06.2022 passed by Employees' State Insurance Corporation, the second respondent herein and to direct the second respondent to waive the amount of past contributions under Section 91-C of the ESI Act, 1948.

2. Ms.M.Jayanthy, learned Additional Government Pleader accepts notice for the first respondent and Mr.S.Jayakumar, learned Standing Counsel accepts notice for the second respondent. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner is challenging the order dated 29.06.2022, passed by the respondent Corporation, calling upon them to pay the ESI



W.P. No.35197 of 2022

contributions totalling to Rs.14,21,599/- for the period from 01/2012 to 11/2012.

4. Under the impugned order, the respondent Corporation has intimated the petitioner that, in case, the petitioner fails to pay the aforesaid sum within a period of sixty days from the date of the impugned order, the respondents will be constrained to recover the same under Section 45.C to 45.I of the ESI Act, 1948. The petitioner has not preferred any statutory appeal as against the impugned order.

5. Learned counsel for the petitioner, on instructions, would now submit that the petitioner is willing to pay the aforesaid ESI contributions, payable by the petitioner in instalments.

6. In similar matters involving the very same School in respect of a different period, this Court, by its order dated 12.12.2022, issued the following directions:

“6. For the foregoing reasons, this writ petition is disposed of by issuing the following directions:

(a) directing the petitioner school to pay a sum



W.P. No.35197 of 2022

of Rs.15,03,579/- (Rupees Fifteen Lakhs Three Thousand Five Hundred and Seventy Nine Only) to the 2nd respondent Corporation in six (6) equated monthly instalments, commencing from January, 2023, payable on or before the 5th day of every calendar month;

(b) if the petitioner school defaults in payment of even one monthly instalment, the 2nd respondent Corporation is at liberty to proceed against the petitioner school to recover the outstanding amount in accordance with law;

(c) Insofar as the payment of interest, damages and other charges are concerned, the petitioner is directed to give a representation to the 2nd respondent ESI Corporation for waiver/reduction of the said sum within a period of two weeks from the date of receipt of a copy of this Order;

(d) On receipt of the aforementioned representation from the petitioner school, the 2nd respondent Corporation is directed to pass final orders on merits and in accordance with law on the said representation within a period of three months thereafter and till final orders are passed on the representation of the petitioner-school, the 2nd respondent Corporation shall not take any coercive



steps against the petitioner-school with regard to the interest/damages or any other claim. However, it is made clear that in case, the 2nd respondent rejects the petitioner's representation, they are at liberty to recover the outstanding amount which includes interest and damages in accordance with law.”

7. Accordingly, this Court is inclined to dispose of this writ petition on the same lines of the order dated 12.12.2022 and the directions are as follows:

(a) There shall be a direction to the petitioner School to pay a sum of Rs.14,21,599/- (Rupees Fourteen Lakhs Twenty One Thousand Five Hundred and Ninety Nine Only) to the second respondent Corporation in six equated monthly instalments, commencing from February, 2023, payable on or before the fifth day of every calendar month;

(b) If the petitioner School defaults in payment of even one monthly instalment, the second respondent Corporation is at liberty to proceed against the petitioner School to recover the outstanding



W.P. No.35197 of 2022

amount in accordance with law;

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8. With the aforesaid directions, this writ petition is disposed of.

There will be no order as to costs. Consequently connected miscellaneous petition is closed.

03.01.2023

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

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To :

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

2. The Deputy Director
Employees' State Insurance Corporation
143, Sterling Road, Panchdeep Bhavan
Chennai - 600 034.



WEB COPY



W.P. No.35197 of 2022

ABDUL QUDDHOSE, J.

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W.P.No.35197 of 2022 and
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