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W.P.No.3871 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.02.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.3871 of 2021

and

WMP.Nos.4434, 4435 & 28813 of 2021

St.Josephs Matriculation Higher Secondary School,
Represented by its Correspondent,
Opposite to Park Road,
Kangeyam Road,
Trippur - 641 604.

...Petitioner

vs.

1. The Government of Tamil Nadu
Rep. by its Principal Secretary,
Labour and Employment Department,
Fort St. George, Chennai - 600009.
2. E. S. I.- Regional Corporation (Tamil Nadu)
Rep. by its Regional Director,
143, Sterling Road,
Chennai 600 034.
3. E. S. I.- Sub - Regional Office (Tamil Nadu),
Rep. by its Asst. Director (IPN) for Director,
1897, Trichy Road,
Panchdeep Complex,



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Ramanathapuram,
Coimbatore - 641 045.

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4. E. S. I.-Sub-Regional Office (Tamil Nadu)
Rep. by its Dy. Director,
1897, Trichy Road,
Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045.

5. Manager,
Branch Office, ESI Corporation,
KNP Puram, 39, Kaveri Street,
Meghala House, Odakakadu,
Tirupur - 641 602.

...Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to dated 20.11.2020 under C18 - Adhoc, in No.56001108450001302 / 11202020316, on the file of the 4th respondent in respect of the petitioner school and quash the same, directing the respondents to consider the waiver of arrears of contribution, Interest and Damages u/s 91C of ESI Act, 1948, in terms of the order dated 29.07.2020 of the Full Bench of this Hon'ble High Court in the batch of writ petitions in W. P. No. 34236 of 2019.



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For petitioner : Mr.Dr.FR.A.Xavier Arulraj

for Father Xavier Associates M/s.A.Arulmary

For Respondents : Mr.P.Sanjay Gandhi,

Government Advocate for R1

M/s. T.N.C.Kaushik, Standing Counsel

for RR2 to 5

ORDER

The impugned order is passed in C-18 Adhoc notice. Though the relief claimed in the writ petition is extensive, at the time of arguments, the learned counsel has sought for limited relief.

2. The learned counsel for the petitioner submits that an opportunity may be given to the petitioner to appear before the authorities with the relevant records and thereafter an order under Section 45(A) may be passed. The learned counsel further submits that on passing of the 45-A order, the petitioner may be permitted to pay the amount determined in 12



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equated monthly installments.

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3. The learned counsel for the respondent submits that the petitioner may be directed to pay a part of the amount determined under C-18 Adhoc order and thereafter the petitioner may be directed to produce the records before the authorities for determination of dues under Section 45-A of the order.

4. I have heard both the learned counsels and I have perused the materials placed on record.

5. It is seen that impugned order dated 20.11.2020 was passed demanding an amount of Rs.98,98,763/- towards ESI dues from the petitioner. Indisputably the order is only C-18 Adhoc order and therefore final order has to be passed under Section 45-A of the ESI Act. To meet the ends of justice, the petitioner is directed to pay Rs.33,00,000/- (Rupees Thirty Three lakhs) in the first instance within a period of six (6) weeks



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from the date of receipt of a copy of this order. On such payment the petitioner shall be permitted to produce all the records before the respondent in the 45-A proceedings. The authority shall pass orders under 45-A proceedings within a period of twelve (12) weeks from the date of receipt of a copy of this order. Thereafter the petitioner shall pay the amount determined under 45-A proceedings in nine (9) Equated Monthly Installments. In case of default of any of the installments, the respondent shall be at liberty to take appropriate proceedings in accordance with law for the recovery of the amount under the 45-A order.

Accordingly, writ petition is disposed of. No costs. Consequently connected WMPs' are closed.

dsn

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Index:Yes/No

Neutral Citation:Yes/No



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N.MALA,J.

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