



W.P.No.23140 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N. MANJULA

**W.P.Nos.23140 & 22989 of 2024 &
WMP.Nos.25269 & 25272, 25065 and 25067 & 25068 of 2024**

1. Mr. J. Aravindan
Managing Trustee
M/s.Acharya Educational Public Trust,
No.5, Vasantha Nagar, Villianur,
Puducherry 605 110.
2. M/s. Acharya Bala Siksha Mandir,
80, Kamatchiyamman Koil Street,
Puducherry 605 110.
3. M/s.Acharya Educational Public Trust,
Acharya Arts & Science College,
Achariyapuram, Uruvaiyar,
Villianur, Puducherry 605 110.
4. M/s. Acharya Educational Public Trust,
Acharya Siksha Mandir,
Achariyapuram, Uuvaiyar,
Villianur, Puducherry 605 110.
5. M/s. Acharya Educational Public Trust,
Acharya College of Education and
Acharya Teachers Academy,
No.5, Vasantha Nagar, Villianur,
Puducherry 605 110.

... Petitioners in both WP

Vs.

1. The Regional Director,



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Employees State Insurance Corporation
ESIC Complex, Bouvankare Street,
Mudaliarpeta, Puducherry 605 004.

2. The Deputy Director/Authorised Officer,
Employees State Insurance Corporation,
ESIC Complex, Bouvankare Street,
Mudaliarpeta, Puducherry 605 004.

... Respondents in both WPs.

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of declaration declaring the order passed by the 2nd respondent dated 29.04.2024 and 30.04.2024 bearing reference Nos.PDY/INS/55-00-042333-000-1302/45A/9187 and PDY/INS/55-00-042333-000-1302/45A/9188 as against the petitioners directing them to pay a sum of Rs.79,93,416/- (Rupees seventy nine lakhs ninety three thousand four hundred and sixteen only) and 54,86,250/- (Rupees fifty four lakhs eighty six thousand and fifty only) respectively as null and void and ultra vires to the Proviso to Section 45(A) of the Employees State Insurance Act, 1948.

For Petitioner : Mr.O.L.V.Ganesan
for Ganesan and Ganesan

For Respondents : Mr. G.B.Bharadwaj

COMMON ORDER

These Writ Petitions have been filed challenging the orders dated 29.04.2024 and 30.04.2024 made by the 2nd respondent authority.



2. The learned counsel for the petitioner submits that the petitioner is one of the members of the Association which has already challenged the notification covering the educational institutions in Pondicherry by way of preferring Writ Petitions in W.P.No.16273 of 2007. The said writ petition was dismissed. The petitioners have preferred an appeal in W.A.Nos.520 and 522 of 2011 and until the disposal of the Writ Appeals, the respondent authorities cannot pass any orders on the basis of the notification and issue directions for any recovery of the amount considering the due to be paid by the petitioners and similar other institutions towards ESI contribution.

3. The learned counsel for the respondents submitted that earlier, the educational institutions in Tamil Nadu have formed an association between themselves and they have challenged the similar notification issued in Tamil Nadu covering the educational institutions in Tamil Nadu. All the writ petitions have been clubbed together and placed before the Full Bench, in which, the Full Bench has passed an order on 29.07.2020 by upholding the validity of the notification issued by the Government of Tamil Nadu.

4. It is the argument of the learned counsel for the respondents that in fact,



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the above order has attained finality as the appeals challenging the above order were also dismissed. The arguments of the learned counsel for the respondents is that the issue has already been decided and put at rest and hence, the petitioner cannot re-agitate the same by way of preferring a writ petition.

5. Even though, it is claimed that the Association of the Educational Institutions of Pondicherry has already challenged the impugned notification and the matter is pending before the Division Bench, no order of stay has been passed to stop the operation of the notification issued to cover the Educational Institutions. Only in view of the same, the impugned proceedings have been initiated against the petitioners' institutions. As on today, even though the Association, in which the petitioners claim to be members have challenged the very same notification, the notification is well in operation. So the petitioners ought to have either got an order of Stay before the Division Bench where the writ appeal is pending or should have preferred a statutory appeal before the appropriate authority. The petitioners have come to this Court directly as though the notification issued covering the Pondicherry Educational institutions have already been stayed. Hence setting aside the impugned order or staying the operation of the said order would amount to usurping the jurisdiction of the



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Division Bench, as the actual dispute as to the validity of the notification covering the Pondicherry institutions is pending.

6. By leaving the ground raised in this petition open, the petitioners are given a liberty to obtain an order of stay, if they can convince the Writ Appellate Court or to file a statutory appeal challenging the impugned order before the appropriate authority, if the limitation for the appeal is available.

7. The writ petitions are disposed of with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

25.09.2024

Index: yes/no
Internet:yes/no
msr

To

The Regional Director,
Employees State Insurance Corporation
ESIC Complex, Bouvankare Street,
Mudaliarpet, Puducherry 605 004.
2. The Deputy Director/Authorised Officer,

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