



W.P.(MD)No.9303 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.9303 of 2024 &
W.M.P.(MD)No.8489 of 2024

1.Sarah Tucker Teacher Training Institute,
Represented by its Correspondent,
Palayamkottai, Tirunelveli -2.

2.Tinnevelly Diocesan Trust Association,
Represented by its Secretary and Treasurer,
High Ground Road,
Palayamkottai, Tirunelveli - 2.

... Petitioners

vs.

1.The Deputy District
Sub Regional Office,
Employees State Insurance Corporation,
Panchdeep Bhawan, ESIC Complex,
Salai Street, Vannarpettai, Tirunelveli - 3.

2.The Recovery Officer,
Employees State Insurance Corporation,
Panchdeep Bhawan, ESIC Complex,
Salai Street, Vannarpettai,
Tirunelveli - 3.

3.The Branch Manager,
State Bank of India,
Palayamkottai Branch,
No.41-C, Trivandrum Road,
Palayamkottai, Tirunelveli - 2.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus calling for the records relating to the impugned orders passed by the first respondent in proceedings No.66-00-042088-000-1304/45-A/SRO/TLI/646-20, dated 13.12.2022 and the consequent order passed by the second respondent in proceedings No.66-00-042088-000-1304/Ins/SRO/TLI, dated 18.01.2024 and consequent garnishee order issued by the second respondent in proceedings No.66000420880001304/PRC/SRO/TLI, dated 13.02.2024 and quash the same as illegal and consequent direction may be issued to the first and second respondents Corporation to not to proceed further against the petitioners and to repay the recovered amount to the petitioner within the stipulated time.

For Petitioners : Mr.T.Augustine Ebenezer
For Respondents : Mr.R.Ravikumar
for R1 and R2
Mr.N.Dilip Kumar for R3

ORDER

Heard Mr.T.Augustine Ebenezer, learned counsel for the petitioners, Mr.R.Ravikumar, learned counsel appearing for the respondents 1 and 2 and Mr.N.Dilipkumar, learned counsel appearing for the third respondent.



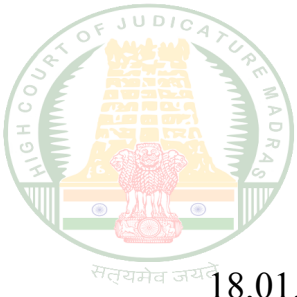
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2. By consent, this writ petition is taken up for final disposal at the admission state itself.

3. The petitioners have filed this writ petition praying to issue a Writ of Certiorarified mandamus calling for the records relating to the order passed by the first respondent in proceedings No. 66-00-042088-000-1304/45-A/SRO/TLI/646-20, dated 13.12.2022 and the consequent order passed by the second respondent in proceedings No. 66-00-042088-000-1304/Ins/SRO/TLI, dated 18.01.2024 and consequent garnishee order of the second respondent in proceedings No. 66000420880001304/PRC/SRO/TLI, dated 13.02.2024 and quash the same as illegal. Consequently, direct the first and second respondent Corporation not to proceed further against them and repay the recovered amount within the stipulated time.

4. Mr.T.Augustine Ebenezer, learned counsel appearing for the petitioners submitted that the Contribution Assessment Order / impugned order dated 13.12.2022 and the subsequent Recovery Order dated



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18.01.2024 have been passed without giving an opportunity to the petitioners and hence they should be quashed. It is his submission that the earlier notice was issued in the name of the former Correspondent and hence, the petitioners did not have any opportunity of getting notice and offering explanation.

5. Even though the earlier notice has been issued in the name of the former Correspondent, the address has been mentioned as the petitioner School Campus and whether the notice was delivered to the petitioner's address, ie., School Campus or not can be verified only from the file maintained by the first and second respondents. In fact, in the proceedings dated 13.12.2022 itself, an opportunity was provided to the petitioners to file an appeal before the Appellate Authority within a period of 60 days with a condition to deposit 25% of the contribution so ordered. The petitioners without availing the statutory remedy as provided in the statutes and as informed in the Contribution Assessment Order, have straightaway approached this Court by filing writ petition which is not correct.



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6. The Contribution Assessment Order has been issued in the year 2022 itself and the recovery order has been issued only after a lapse of two years. The petitioner did not resort to due process though he had received the Contribution Assessment Order in the year 2022, but rushed to this Court after he had received an order of recovery. Since the petitioner had chosen a wrong forum without following the provisions of Employees State Insurance Act with regard to his entitlement to file an appeal, this writ petition lacks interest.

7. Therefore, the writ petition is **dismissed**. No Costs.
Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
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R.N.MANJULA, J.

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