



C.R.P(MD)Nos.1596 to 1598 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 22.07.2024

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THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)Nos.1596 to 1598 of 2024
and
C.M.P(MD)Nos.9439, 9441 & 9444 of 2024

Employees State Insurance Corporation,
Representation by its Assistant Director,
Sub Regional Officer,
Panchdeep Bhavan,
Salai Street, Vannarpettai,
Tirunelveli - 627 003.

... Petitioner in all petitions

Vs.

White Memorial Matriculation School,
Represented by its Correspondent Dr.T.R.Leelabai,
N.5/116-J-1, Railway Station Road,
Marathandam,
Kanyakumari District - 628 165.

... Respondent in all petitions



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Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the order, dated 13.05.2024 made in I.A.Nos.6 of 2024 in ESIOP.No.84 of 2023, I.A.Nos.6 of 2024 in ESIOP.No.100 of 2023 and I.A.Nos.6 of 2024 in ESIOP.No.101 of 2023 on the file of the Labour Court, Tirunelveli District.

In all petitions

For Petitioner : Mr.I.Pinaygash

For Respondent : Mr.S.Nallathambi

COMMON ORDER

All these three Civil Revision Petitions are connected to each other since that in three different E.S.I.O.Ps., interim order was passed in three interlocutory applications.

2. The Petitioner Corporation has initiated proceedings as against the respondent School management claiming due in respect of ESI contributions and passed an order under Section 45-A of the Act. As against which, when the respondent has filed the above original petitions, considering the total amount due, order has been passed in the respective



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waiver application to deposit part amount pursuant to which waiver was ordered. Thereafter, the main ESIOP is taken on file and it is pending. Pending the ESIOP, the petitioner organization went ahead to recover the sums as demanded by them along with further interest. Considering the fact that when the ESIOP is pending after grant of waiver, the urgency which is shown by the petitioner in recovering the amount, the trial Court disapproved the said practice and by separate orders impugned in this Civil Revision Petitions, directed the petitioner Corporation to redeposit the sums of Rs.89,036/-, Rs.8,22,030/- and Rs.2,03,775/- respectively to be deposited back in Court and ordered that the same shall be maintained in interest bearing deposit. Aggrieved by the same, the Employees State Insurance Corporation has filed the present Civil Revision Petitions.

3. Mr.I.Pinaygash, learned counsel appearing on behalf of the petitioner would submit that when no stay was granted pending the ESIOP, there was no error or illegality on the part of the Corporation in proceeding with the matter further.

4. Per Contra, the learned Counsel Mr.Nallathambi, taking



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notice on behalf of the respondent would submit that in this case, when already amounts have been deposited in the waiver application and the waiver has been ordered and the main ESIOP is pending consideration of the Court, in a high handed manner action has been taken and not only the contribution amount, further interests were also recovered from the School. He would further submit that the trial Court has also not ordered the amount to be paid out to the management but however should be kept in Court deposit only. He would therefore submit that no prejudice whatsoever is being caused to the appellant Corporation.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. To an extent, I am in agreement with the learned counsel for the respondent management that the amount is not ordered to be refunded to the management, but it is only ordered to be kept in Court deposit. The purpose of the order is that if the management succeeds in the ESIOP, it must be in a position to get refund of the amounts along with interests and the amounts should also be invested in any interest bearing account.



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7. At the same time, it can be seen that pending the ESIOP, there was no express order of stay also. Though the trial Court is right in observing that the corporation was in a little haste, at the same time it should have considered that there was no interim order. Therefore in order to strike a balance, I am inclined to modify the order of the trial Court.

8. Let the concerned amounts be kept in a separate distinct interest bearing account by the appellant corporation itself and in the event of the respondent management succeeding in the ESIOP, the entire amount along with the accrued interest should be refunded to the respondent management.

9. The order passed by the learned Labour Court, Tirunelveli, in I.A.No.6 of 2024 in ESIOP 101 of 2023, I.A.No.6 of 2024 in ESIOP 100 of 2023, I.A.No.6 of 2024 in ESIOP 84 of 2023 shall stand modified to the above extent. The learned Labour Court, Tirunelveli is requested to take up the ESIOP for expeditious disposal and in any event dispose of the same not later than six months from the date of receipt of a copy of this order.



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10. With the above modification and direction, these Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

22.07.2024

NCC:Yes/No
RM

To

1.The Labour Court,
Tirunelveli



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D.BHARATHA CHAKRAVARTHY, J.

RM

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