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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.19063 of 2018
and
W.M.P.(MD)Nos.16910 to 16912 of 2018

The Little Angels Jayarani Matriculation School,
Rep. by its Correspondent,
K.Vidhya ... Petitioner

Vs.

1.The Deputy Director (INS II),
Sub Regional Office,
Employee's State Insurance Corporation,
SRO-Madurai, ESI Corporation,
2nd West Street, K.K.Nagar,
Madurai District-625 020.

2.The Recovery Officer,
Office of the Recovery Officer,
Sub Regional Office (Madurai),
Employee's State Insurance Corporation,
2nd West Street, K.K.Nagar, Madurai-20.

3.The Manager,
Pandyan Grama Bank,
Pudukkottai-622 001, Pudukkottai District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in No.57/RRC/00/072909/000/1302/SRO/MDU/18,

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dated 31.07.2018 on the file of the 2nd respondent and the consequential impugned order in OTH-44/18 on the file of the 3rd respondent dated 28.08.2018 and quash the same as illegal.

For Petitioner : Mr.S.Rajasekar
For R1 & R2 : Mr.R.Ravindran
For R3 : Mr.N.Dilip Kumar

ORDER

Challenge has been made to the orders of the respondents 2 and 3 dated 31.07.2018 and 28.08.2018 respectively.

2.Heard the learned counsel on either side and perused the materials available on record.

3.The question as to whether the private educational institutions would be covered by ESI Act was settled by the Hon'ble Full Bench in the decision reported in ***2020(5) CTC 93 FB (All India Private Educational InstitutionsAssociation Vs. State of Tamil Nadu)***. The Hon'ble Full Bench in Paragraph Nos.130 to 133 has observed as follows:-

"130. This matter was heard and reserved for orders just before the preparations for lock down of the Country on account of COVID-19 pandemic were announced. Thus, in addition to

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whatever we have stated above on the merits of the issue referred to us, we are also of the view that the present economic conditions necessitate some leeway and negotiations in the matter of settlement of arrears due by the Educational Institutions.

131. Section 91-C of the ESI Act comes to aid. Section 91-C provides for the writing off of loss and states as follows:

"91-C. Writing off of losses subject to the conditions as may be prescribed by the Central Government where the Corporation is of opinion that the amount of contribution, interest and damages due to the Corporation is irrecoverable, the Corporation may sanction the writing off finally of the said amount."

132. A provision is, thus, made for the Corporation to sanction the writing off of the contribution, interest and damages due to it if the Corporation is of the opinion that such amounts are irrecoverable from the Educational Institutions concerned. The pandemic has resulted in a situation where several Educational Institutions are reportedly unable to even pay regular salaries to their employees. The financial crunch faced by them, at this juncture, is a matter of public knowledge. The impugned notification no doubt mandates certain contributions to be made and we have upheld the validity of the same. The contributions to be made under the Notification enure to the coffers of the Corporation and it is not the Corporation's case that there are claims that have been made by the employees of the Educational Institutions that remain unfulfilled on account of the failure of the Institutions to make the contributions in the first place. No

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prejudice has thus been caused to the employees per so for the periods till the date on account of such failure by the Educational Institutions.

133.We, thus, strongly recommend that the provisions of Section 91-C be applied in letter and spirit by the Corporation in considering the case for reduction/waiver of pending arrears, if and when made by the Educational Institutions. Such requests, if and when made, shall be considered by the Corporation in line with the object and spirit of Section 91-C, particularly in the light of the present economic conditions."

4.The learned counsel appearing for the petitioner fairly would submit that the said decision is squarely applicable to the case on hand. Therefore, the petitioner is ready and willing to deposit the amount as mentioned in the impugned orders. However, he seeks indulgence of this Court that the petitioner may be permitted to pay the amount by way of four equal monthly installments.

5.Considering the request made by the learned counsel for the petitioner, this Court directs the petitioner to pay the demand amount as mentioned in the impugned orders by way of four equal monthly installments. The first installment shall be made on or before 31.01.2025; the second installment shall be made on or before 28.02.2025; the third installment shall be

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made on or before 31.03.2025 and the fourth installment shall be made on or before 30.04.2025.

6.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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