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W.P.No.5951 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.5951 of 2023
and WMP.Nos.5950 & 5952 of 2023

C.S.I. Ewart Matriculation Hr. Sec. School
Rept. by its Correspondent
93, Dr.Alagappa Road
Chennai - 600 084.

... Petitioner

Vs

1.E.S.I. - Regional Corporation (Tamil Nadu)
Represented by its Regional Director
143, Sterling Road, Chennai - 600 034.

2.The Deputy Director
E.S.I. Corporation
143, Sterling Road
Chennai - 600 034.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 30.01.2023 in No.TN/Ins-VIII/51-00-100391-000-1302/D18, for the period from 12/2010 to 10/2019 on the file of the second respondent in respect of the petitioner-school and quash the same and to direct the respondents to consider the waiver of damages.



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For Petitioner : Dr.Fr.Xavier Arulraj, Senior Counsel
for M/s.Fr.Xavier Associates

For Respondents : Mr.T.N.C.Kaushik [R1 & R2]

ORDER

The above writ petition has been filed seeking a Certiorarified Mandamus to quash the order passed by the second respondent dated 30.01.2023 and to direct the respondents to consider the waiver of damages.

2. The case of the petitioner is that the petitioner-school is an unaided educational institution. The Government by G.O.(Ms) No.237 Labour and Employment (K1) Department, dated 26.11.2010, has extended the ESI coverage to unaided/self-financing educational institutions. Pursuant to the said G.O., the petitioner-school is covered under the ESI Act. Challenging the said G.O., and the consequential proceedings of the respondents dated 15.02.2013, the petitioner had earlier filed W.P.No.19347 of 2013. This writ petition came to be admitted and interim orders have been obtained on 17.07.2019.

3. The learned counsel for the petitioner would further submit that



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several unaided educational institutions were before this Court challenging similar issue. Therefore, the core issue of ESI coverage was referred to the Full Bench of this Court. The issue was ultimately given a quietus by a judgment of the Full Bench in ***All India Private Educational Institutions Association Vs. State of Tamil Nadu*** reported in [2020 (5) CTC 93].

4. The learned counsel appearing for the petitioner has brought to the notice of the Court that the authorities have extended a concession to an another similarly placed school viz., M/s.Anita Methodist Matriculation Higher Secondary School, Vepery, Chennai - 600 007, where the Additional Commissioner and Regional Director of Employees' State Insurance Corporation has passed an order on 02.05.2022, directing that the damages for the delayed remittance of contribution shall be calculated by excluding the time spent on litigation.

5. The petitioner would submit that they are also similarly placed and therefore, the damages levied on the petitioner-school by the second respondent by his proceedings dated 30.01.2023, for the delayed payment of ESI contribution for the period from 12/2010 to 10/2019, may be waived off.



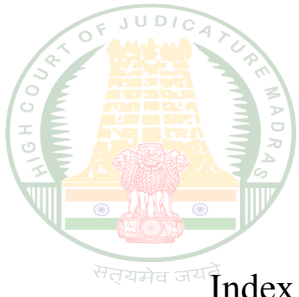
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6. The learned counsel appearing for the respondents would submit that the petitioner-school shall submit a fresh representation in this regard, as their original representation was given much prior to the passing of the impugned order.

7. Heard the learned Senior Counsel appearing for the petitioner-school and the learned counsel appearing for the respondents.

8. The writ petition is disposed of directing the petitioner-school to submit a fresh representation forthwith, seeking waiver of the damages and upon receipt of the said representation from the petitioner-school, the respondents shall consider the same, in the light of the orders passed by the Additional Commissioner and Regional Director, ESI Corporation, on 02.05.2022 in respect of a similarly placed school viz., Anita Methodist Matriculation Higher Secondary School, Vepery, Chennai - 600 007, and pass orders within a period of three weeks from the date of receipt of the said representation. No costs. Consequently, connected miscellaneous petitions are closed.



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Index : Yes / No

Neutral Citation : Yes / No

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To:

- 1.The Regional Director
E.S.I. - Regional Corporation (Tamil Nadu)
143, Sterling Road, Chennai - 600 034.
- 2.The Deputy Director
E.S.I. Corporation
143, Sterling Road
Chennai - 600 034.



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P.T. ASHA, J.

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