



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.14148 of 2025
and WMP. Nos. 15893& 15895 of 2025

Anna Nehru Matric Higher Secondary School
Mudalaipatti
Namakkal – 637 003
Represented by its Correspondent
P N Palanisamy

... Petitioner

V

1. The Deputy Director (Rev)
Sub-Regional Office (Salem)
Employees State Insurance Corporation,
39/57, Theerthamalai Vaniga Valagam
Three Roads
Salem – 636 009.

2. The Recovery Officer,
Sub-Regional Office (Salem)
Employees State Insurance Corporation,
39/57, Theerthamalai Vaniga Valagam
Three Roads,
Salem – 636 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus, calling for the records of the 1st respondent and quash its order dated 31.03.2022 in Proceeding No.63000961220001303/INS-I/SRO/SLM/655/19 under Section 45 A of the Employees State Insurance Act, 1948 or in the alternative direct the 1st



respondent to provide an opportunity to the petitioner to enable it to place the factual aspects including the question of jurisdiction and conduct a fresh enquiry.

For Petitioner : Mr. Haroon AL Rasheed
For M/s.Agam Legal

For Respondent : Mr. M.Nirmal Kumar

ORDER

This Petition has been filed under Article 226 of the Constitution of India seeking to quash the order dated 30.08.2019 passed by the first respondent in Proceeding No. No.63000961220001303/INS-I/SRO/SLM/655/19 under Section 45A of the Employees State Insurance, Act, 1948 and to consequently direct the first respondent to provide an opportunity to the petitioner to enable it to place the records and conduct a fresh enquiry.

2. It is the case of the petitioner that the petitioner is an educational institution functioning under the affiliation of Private Schools Regulation Act and started in the year 1983. Though initially the petitioner was having sufficient number of students enrolled in the academic years, at present it has got only about 20 teaching and 5 non teaching staff. However, without affording any opportunity to the petitioner, an order dated 31.03.2022 under Section 45A of the Employees State Insurance Act, 1948 (in short 'the Act')



came to be passed claiming a sum of Rs.9,82,195/- for the period from 12/2014 to 10/2019 by the first respondent. Challenging the same, the present writ petition has been filed seeking the aforesaid relief.

3. The learned counsel for the petitioner submits that the first respondent ought to have sent proper notice and granted adequate opportunity to the petitioner and has gravely erred in bi-passing the principles of natural justice. Hence, the order passed by the first respondent is wholly misconceived. The learned counsel appearing for the petitioner upon instructions submits that the petitioner is constrained to pay 25% of the demand amount before the first respondent and upon such payment, this Court may set aside the impugned order dated 31.03.2022 and remand the matter to the first respondent for fresh consideration and pass appropriate orders within the time frame that may be stipulated by this Court.

4. The learned counsel for the respondents submits that since the employer has failed to pay the ESI contribution, the office of the respondents has issued a compliance letter informing the employer to pay the contribution for defaulted period. Though the said letter was duly acknowledged by the employer, the petitioner / employer has failed to furnish any reply. Moreso, a



show cause notice to the employer as well as to the employer unit was issued

for non-compliance. However, both the notices were returned as refused.

Though, there is an effective appeal remedy available before the Appellate Tribunal, however, without resorting to such remedy, filing the present petition seeking the aforesaid relief is wholly unsustainable. Accordingly, he prayed for passing appropriate orders.

5. Heard the learned counsel for the petitioner and the learned counsel for the petitioner and the learned counsel for the respondents.

6. Admittedly, an ex-parte non-speaking order u/s.45A of the Act has been passed as against the petitioner, without affording any opportunity to the petitioner, assailing which the present writ petition has been filed. Though the facts stand as such, in view of the stand taken by the learned counsel for the petitioner that the petitioner is ready to deposit 25% of the contribution as per 45A order, this Court directs the petitioner to deposit 25% of the contribution before the first respondent within a period of two (2) weeks from the date of receipt of a copy of this order and the impugned order dated 31.03.2022 passed by the first respondent is set aside on the ground of the order being a non-speaking order. Upon such payment being made, the matter



is remanded to the first respondent for fresh consideration and to conduct an enquiry by affording opportunity to all the aggrieved parties and pass appropriate orders within a period of eight (8) weeks thereafter.

7. This writ petition is allowed with the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

22.04.2025

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Index : Yes / No

Speaking order / Non speaking order

Netrual Citation Case : Yes / No

6M.DHANDAPANI, J.

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To

1. The Deputy Director (Rev)
Sub-Regional Office (Salem)

5/6



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