



W.P. No.32871 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.32871 of 2022
and W.M.P. Nos.32277 & 32278 of 2022

Francis Xavier Meddle School,
represented by its Correspondent,
Alwarpet, Chennai - 600 018.

.. Petitioner

vs.

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

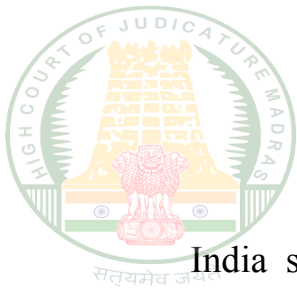
2. Employees' State Insurance Corporation,
represented by Deputy Director,
143, Sterling Road, Chennai - 600 034.

3. The Recovery Officer,
Office of the Recovery Officer,
ESI Corporation,
Panchdeep Bhavan,
143, Sterling Road, Chennai - 600 034.

4. The Bank Manager,
Union Bank of India,
26HX + Q59, Chamier's Road,
Pasumpon Salai, Austin Nagar,
Alwarpet, Chennai - 600 035.

.. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of



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India seeking to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of attachment dated 12.08.2022 in No.TN/RECY/45G/51 51001072140001302/CCR-110359 on the file of the 3rd respondent and quash the same directing the respondents to withdraw the erroneous coverage of the ESI Scheme to the petitioner Aided School.

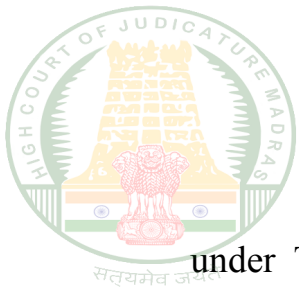
For Petitioner : Mr. Xavier Arulraj, Senior Counsel
for Partner Xavier Associates
A. Arul Mary

For Respondent : Mr. C.V. Ramachandra Murthy
for ESI.

ORDER

This Writ petition has been filed to direct the respondents 1 to 3 to lift the Attachment Notice issued under Section 45G of the Employees' State Insurance Act dated 12.08.2022 No. TN / RECY / 45G / 51 51001072140001302/CCR-110359 in respect of the Account No.332302010015001 of the petitioner School in the 4th respondent bank enabling the petitioner to operate its bank account and to direct the respondents to withdraw the erroneous coverage of the ESI Scheme to the petitioner Aided School.

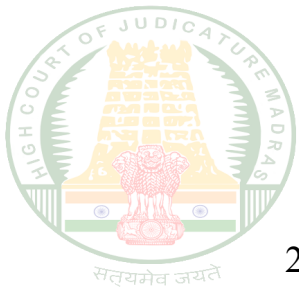
2. The learned counsel for the petitioner would submit that the petitioner School is an aided School, covered by the Grant-in-Aid Scheme



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under Tamil Nadu Recognized Private Schools Regulation Act, 1973 and there are around 388 students studying from VI to X Standard. There are around 19 teaching and non-teaching aided Staff working in the institution receiving salary from the Government. The competent educational authorities are fixing the Staff strength of the petitioner School every year as per the rules and regulations of the Government. All the Staff of petitioner School are already covered by the New Health Insurance Scheme of the Government of Tamil Nadu. The Government of Tamil Nadu under Section 1(5) of the Employees State Insurance Act has issued a gazette notification dated 02.01.2013 extending ESI coverage to the educational institution. As per the above said notification, ESI coverage is applicable to all the Schools in Tamil Nadu, subject to the coverage of the ceiling limit stipulated under Rule 51 of the ESI Rules, 1960. The ESI Scheme is applicable to any factory and establishment, wherein the employees are receiving a salary less than Rs.15,000/- per month upto 31.12.2016 and the same was enhanced from Rs.15,000/- to Rs.21,000/- with effect from 01.01.2017. But all the Staff of the petitioner School are receiving salary above the ceiling limit of ESI coverage. Therefore, ESI is not applicable to the petitioner institution.



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2.1. The learned counsel for the petitioner would further submit that the 2nd respondent had issued a C-18 Adhoc Notice to the petitioner on 19.06.2018 to pay the contribution of arrears of Rs.6,98,198/- for 42 employees. Again the 2nd respondent issued a C-18 Adhoc Notice on 22.06.2018 to pay contribution of Rs.4,89,626/- for the period from January 2017 to March 2018. Thereafter, a final Show Cause Notice was issued on 11.12.2018. The representatives of the petitioner Management appeared and explained. In spite of that explanation, the 2nd respondent issued notices under Section 45A of ESI Act for the period from June 2014 to December 2016 and January 2017 to March 2018 for the contribution of omitted wages and directed the petitioner School to pay Rs.15,397/-. The petitioner paid the demanded amount on 22.03.2022 in order to avoid attachment of the bank account of the School. The 2nd respondent had again issued a Notice under Section 85B of ESI Act to recover damages for the late payment for the period from June 2014 to March 2018 on 30.06.2022 and also issued an Attachment Notice under Section 45(G) of the ESI Act on 12.08.2022 to the Union Bank of India, Chamiers Road Branch, Austin Nagar, Alwarpet, Chennai. The 4th respondent informed the petitioner School to pay an amount of Rs.19,234/-to the ESI Corporation, otherwise the Bank Account of



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the petitioner School will be attached. The respondent are issuing notices without considering the explanations made by the petitioner School and the nature of the employees working in the educational institution. Therefore, the order passed by the ESI Authorities by attachment of the bank account under Section 45G is liable to be quashed.

3. The learned counsel appearing for the respondents would submit that the petitioner establishment covered under ESI Act and they passed an order under Section 45A of the ESI Act and the same was not challenged. Without challenging the said order, the consequential order passed for attachment, cannot be challenged through this Writ petition. Therefore, the petition itself is not maintainable and already the petitioner has paid contribution for some time and now they failed to pay contribution, thereby, the order was passed under Section 45A of the ESI Act and in order to execute the order, they had issued the attachment notice dated 12.08.2022. Therefore, without challenging the order passed under Section 45A of the Act, this Writ petition is liable to be dismissed.

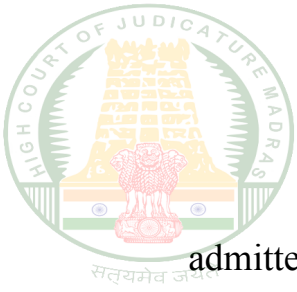
4. Heard both sides and perused the entire materials available on record.



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5. According to the petitioner School, it is not covered under the ESI Act and it is an aided School and the Staff of the School are receiving salary more than the ceiling amount. This Court also perused the order passed by the Authority under Section 45A of the ESI Act, wherein, the Authorities themselves admitted in the order that as per the Salary Registers, there were no coverable employees in the School. However, as per the Statement of Income and Expenditure, the omitted wages were detected and segregation on omitted wages in respect of heads like Repairs to Buildings, Repairs to Furniture and repainting of Black Board was assessed considering 25% of the total expenses during the relevant period as the wages component, as the employer's record did not segregate the same. Therefore, the order was passed directing the petitioner to pay contribution for the period from 06/2014 to 12/2016. Despite the Authority came to a conclusion that there are no coverable employees in the School, the order was passed. However, the same has not been challenged by the petitioner School. As rightly pointed out by the learned counsel appearing for the respondent that without challenging the order passed by the Authority under Section 45A of the Act, the consequential attachment order cannot be quashed. However, the School Authorities



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admitted that already they remitted some amount to the Provident Fund Authorities and thereafter the order was passed and therefore, they were unable to operate their bank account. Therefore, the petitioner is at liberty to challenge the order passed by the Authorities under Section 45A of ESI Act before the appropriate Forum in accordance with law. However, the impugned order was passed to the bank authorities without issuing notice to the petitioner and since coverage itself is in question and the respondent also admitted that no coverable employees are in the School, it is appropriate to quash the attachment order in order to operate the bank account.

6. This Court has granted liberty to the petitioner to challenge the order passed under Section 45A of the ESI Act, hence the attachment order has to be quashed. It is for the petitioner to take appropriate steps before the appropriate Forum within ***one month from the date of receipt of a copy of this*** order. Thereafter, the respondents are at liberty to proceed based on the outcome of the result of the proceedings before the appropriate Forum.

7. As far as the prayer sought for in the Writ petition in respect of direction to withdraw the erroneous coverage of the ESI Scheme to the



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petitioner aided School is concerned, this Court cannot grant any such relief and it is for the petitioner to work out the remedy before the appropriate Forum.

8. With the above said directions, the Writ petition is ***partly allowed***.
The order of attachment dated 12.08.2022 in No.TN/RECY/45G/51 51001072140001302/CCR-110359 on the file of the 3rd respondent is quashed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

21.07.2025

Index : Yes/No.
Speaking order/non-speaking order
mjs

To

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represented by its Regional Director,
143, Sterling Road, Chennai - 600 034.

P. DHANABAL, J.,

mjs

2. Employees' State Insurance Corporation,



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represented by Deputy Director,
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