



W.P.(MD)No.10728 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.10728 of 2021
and
WMP(MD)No.8350 of 2021

M/s.Ponnaiyah Ramajayam Public
Higher Secondary School,
Ramasamy Nagar,
State Bank Colony,
Thanjavur,
Through its Trustee in charge

... Petitioner

versus

1. The E.S.I. Corporation
Regional Office (T.N)
Rep. by its Regional Director
Panchdeep Bhavan
No.143, Sterling Road,
Chennai – 600 034.
2. Deputy Director,
E.S.I. Corporation,
Sub Regional Office
39/57, Theerthamalai Vaniga Valagam
Three Roads,
Salem – 636 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Certiorarified Mandamus, to call for the



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records from the file of the 2nd respondent in order No. 63000117650001302/INS-I/SRO/SLM/858/19 dated 22.12.2020 and to quash the order and consequently direct the respondents to write off the demanded amount.

For Petitioner : Mr.C.Karthikeyan

For Respondents : Mr.R.Ravikumar

ORDER

The petitioner, a private Educational Institution, has filed this writ petition as against the order passed by the 2nd respondent/the Deputy Director of ESI Corporation, under Section 45A of ESI Act, dated 22.12.2020.

2. The learned counsel for the petitioner has canvassed his case, based on the observations made by the Hon'ble Full Bench of this Court, in W.P.No.34236 of 2019, etc. (batch cases), in Paragraph 133 of the order dated 29.07.2020.

3. The Hon'ble Full Bench, in W.P.No.34236 of 2019 etc. (batch cases) dated 29.07.2020, while deciding the liability of an Educational Institution



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under ESI Act, has passed an order as under:

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“133. We, thus, strongly recommend that the provisions of Section 91C 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. In fact, the Hon'ble Full Bench, considering the pending arrears, has suggested the parties to apply under Section 91(C) of the ESI Act and directed the Corporation to decide the same in line with the object and spirit of Section 91(C) of the ESI Act.

5. Section 91(C) of the ESI Act reads as under:

91C. 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.]



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6. This is a power which has been conferred on the ESI Corporation to write off the liabilities if any from the Establishment, if the Corporation comes to a conclusion that it is irrecoverable and it is also subject to the condition prescribed by the Central Government.

6. The Hon'ble Supreme Court, in *Salim Akbarali Nanji vs. Union of India and others*, reported in **2006 (5) SCC 302**, held that the bad debts written off cannot be recovered and that despite writing off the debt is still recoverable by the Bank.

7. Therefore, it is not a mandate that the respondent Corporation is to waive the liability of the petitioner Institution on account of corona period. In the event, if the petitioner Management seeks concession of installment for making the liability, the same shall be considered by the Corporation. In the event, if the petitioner Establishment is having a dispute with regard to the amount arrived at by the Authority, then, it is open to the petitioner Management to approach the ESI Court to challenge the quantum arrived at by the Authority.



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8. Accordingly, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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B.PUGALENDHI,J.

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