



WP(MD)Nos.18634, 18637 and 18640 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.18634, 18637 and 18640 of 2019
and

WMP(MD)Nos.15000, 15006 and 15008 of 2019

W.P.(MD)No.18634 of 2019

M/s.Alagappa Preparatory Nursery & Primary School,
Karaikudi,
Sivagangai District – 630 003
Rep. by its Headmistress
Mrs.Mercy

... Petitioner

versus

1. The Deputy Director,
Sub Regional Office (Madurai)
Employees State Insurance Corporation,
No.2, West Street, K.K.Nagar,
Madurai – 20.

2. The Recovery Officer,
Sub Regional Office (Madurai)
Employees State Insurance Corporation,
No.2, West Street, K.K.Nagar,
Madurai – 20.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Certiorari, to call for the records of the
2nd respondent in Proceedings No.SRO/MDU/RRC/57/071775/1301 dated
21.12.2018 and quash the same as illegal, arbitrary and *non est* in law.



WP(MD)Nos.18634, 18637 and 18640 of 2019

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For Petitioner : Mr.B.Vijay

For Respondents : Mr.P.Ganapathysamy

W.P.(MD)No.18637 of 2019

M/s.Alagappa Matriculation Higher Secondary School,
Alagappapuram,
Karaikudi,
Sivagangai District – 630 003
Rep. by its Principal,
Mr.Kumaran

... Petitioner

versus

1. The Deputy Director,
Sub Regional Office (Madurai)
Employees State Insurance Corporation,
No.2, West Street, K.K.Nagar,
Madurai – 20.

2. The Recovery Officer,
Sub Regional Office (Madurai)
Employees State Insurance Corporation,
No.2, West Street, K.K.Nagar,
Madurai – 20.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Certiorari, to call for the records of the
2nd respondent in Proceedings No.57000717760001301/CP/277431/1430/18
dated 17.10.2018 and quash the same as illegal, arbitrary and *non est* in law.

For Petitioner : Mr.B.Vijay

For Respondents : Mr.P.Ganapathysamy



WP(MD)Nos.18634, 18637 and 18640 of 2019

W.P.(MD)No.18640 of 2019

Dr.Umayal Ramanathan College for Women
Karaikudi,
Sivagangai District – 630 003.
Rep. by its Principal,
Mrs.Jayashree

... Petitioner

versus

1. The Deputy Director,
Sub Regional Office (Madurai)
Employees State Insurance Corporation,
No.2, West Street, K.K.Nagar,
Madurai – 20.

2. The Recovery Officer,
Sub Regional Office (Madurai)
Employees State Insurance Corporation,
No.2, West Street, K.K.Nagar,
Madurai – 20.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the 1st respondent in Proceedings No.57000717770001303/92420181150/INS. 3/539/18 dated 24.09.2018 and quash the same as illegal, arbitrary and *non est* in law.

For Petitioner : Mr.B.Vijay

For Respondents : Mr.P.Ganapathysamy

COMMON ORDER

The petitioners are Educational Institutions run by a Private Educational Trust having more than 20 employees. They are covered under ESI Act with effect from 2010, in view of the Notification issued by the



WP(MD)Nos.18634, 18637 and 18640 of 2019

Government of Tamil Nadu, dated 29.12.2010. Some of the Educational Institutions have questioned the Government Order issued by the Government of Tamil Nadu in G.O.Ms.No.237, dated 26.11.20210, bringing the Educational Institutions within the purview of the ESI Act. The Hon'ble Full Bench, in W.P.(MD)No.34236 of 2019 (batch cases) dated 29.07.2020 (*All India Private Educational Institutions Association Vs. The State of Tamil Nadu and others*) upheld the said G.O.

2. Pending this issue, the ESI Corporation has passed determination orders under Section 45-A of the Act, fixing the liability of M/s.Alagappa Preparatory Nursery and Primary School, for the period from 29.12.2010 to 31.12.2014 and the liability of M/s.Alagappa Matriculation Higher Secondary School, for the period from 29.12.2010 to 31.07.2015 along with interest. Thereafter, consequential recovery orders have also been passed under Sections 45-B to 45-I of the ESI Act. Challenging the consequential recovery orders, M/s.Alagappa Preparatory Nursery and Primary School and M/s.Alagappa Matriculation Higher Secondary School have filed W.P. (MD)Nos.18634 and 18637 of 2019 respectively. They have not challenged the orders passed under Section 45A of the ESI Act. In respect of Dr.Umayal Ramanathan College for Women, the ESI Corporation has issued



WP(MD)Nos.18634, 18637 and 18640 of 2019

a show cause notice for an enquiry contemplated under Section 45A of the ESI Act. Challenging the same, W.P.(MD)No.18640 of 2019 has been filed.

3. The petitioner Educational Institutions have challenged the consequential orders of recovery alone, instead of challenging the original order passed under Section 45A of the Act. Therefore, this Court is not inclined to entertain the petitions, questioning the consequential recovery orders passed under Sections 45B to 45I of the Act.

4. According to the petitioners, they have not challenged the orders passed under Section 45A of the Act in the manner provided under the Statute, in view of the pendency of the writ petitions questioning the liability of Educational Institutions before the Hon'ble Full Bench. However, the issue has now been settled by the Hon'ble Full Bench (as stated supra) that the private Educational Institutions, having more than 20 employees, are covered under the ESI Act. Therefore, W.P.(MD)Nos.18634 and 18637 of 2019 are dismissed with liberty to the petitioner Educational Institutions to workout their remedy by filing a statutory appeal available under Section 75 of the ESI Act, questioning the determination orders passed under Section 45A of the Act, before the ESI Court within a period of four weeks from the



WP(MD)Nos.18634, 18637 and 18640 of 2019

date of receipt of a copy of this order. The ESI Court shall entertain those appeals if any filed by the petitioner Educational Institutions without insisting on the period of limitation.

5. Since W.P.(MD)No.18640 of 2019 has been filed questioning the show cause notice issued for the enquiry contemplated under Section 45A of the Act, it cannot be maintained. Therefore, W.P.(MD)No.18640 of 2019 is dismissed with liberty to the petitioner Educational Institution to offer its explanation if any before the Authority within a period of three weeks from the date of receipt of a copy of this order. The Authority shall consider the reply filed by the petitioner for the belated payment and shall pass suitable orders in accordance with law within a period of six weeks from thereon. No costs. Consequently, connected miscellaneous petitions are closed.

14.10.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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WP(MD)Nos.18634, 18637 and 18640 of 2019

B.PUGALENDHI,J.

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WP(MD)Nos.18634, 18637 and 18640 of 2019

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