BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.24035 of 2023
and
WMP(MD)Nos.20187, 20189 of 2023, 16847 of 2025

The Correspondent,
Bishop Arockiasamy Higher Secondary School,
Maravankudiyiruppu,
Nagercoil,
Kanyakumari District.

... Petitioner

v.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Labour and Employment Department,
Fort St.George,
Chennai – 600 009.

2.Employees State Insurance – Regional
Corporation (Tamil Nadu),
Rep. by its Regional Director,
143, Sterling Road,
Chennai – 600 034.

3.The Deputy Director (Revenue),
Employee's State Insurance Corporation
Sub-Regional Office, Tirunelveli
Panchdeep Bhawan, ESIC Complex,
Salai Street, Vannarapettai,
Tirunelveli – 627 003.

4.The Assistant Director,
Employee's State Insurance Corporation
Sub-Regional Office, Tirunelveli
Panchdeep Bhawan, ESIC Complex
Salai Street, Vannarapettai,
Tirunelveli – 627 003. ... Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India, seeking for the issuance of Writ of Certiorari calling for the records relating to the impugned order passed by the fourth respondent Assistant Director in Proceedings No.66-00-041782-000-1303/45-A/SRO/TLI/692-14/246/22 dated 10.11.2022 u/s.45A of the Act, 1948 and quash the same.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mr.C.Venkatesh Kumar
Special Government Pleader for R.1

Mr.C.Karthick for R.2 to R.4

*****

ORDER

The petitioner is a minority aided educational institution. This writ petition has been filed as against the demand notice dated 10.11.2022 issued by the 4th respondent under Section 45A of the Employees State Insurance Act 1948 ("ESI Act"). The 4th respondent, vide the impugned order, directed payment of ESI Contribution of Rs.1,82,325/- for the period from January 2013 to August 2014 along with statutory interest.

2.Learned Counsel appearing for the petitioner educational institution submitted that the ESI Act was made applicable to educational institution by notification dated 26.11.2010. It was challenged by the educational institutions and there was an order of interim stay on the operation of the notification since 31.01.2013 in WA.No.222 of 2013. This interim stay was subsequently extended by a Division Bench of this Court vide order dated 16.06.2015 in WA.Nos.918 of 2013, etc. In the meantime, the 3rd respondent issued a show cause notice on 31.01.2019 directing the petitioner educational institution to show cause as to why a contribution of Rs.5,10,510/- should not be recovered for the period from September 2014 to August 2018. The petitioner institution provided an explanation for the same on 15.02.2019 pointing out the orders of the Division Bench. Thereafter, this issue was conclusively determined only in the year 2020 by the Hon'ble Full Bench of this Court, vide order dated 29.07.2020, holding that the educational institutions are covered under the ESI Act. The Full Bench, however, directed the authorities to consider the claim for write off under Section 91C in light of the pandemic situation. Even thereafter, the ESI Corporation has claimed huge contributions for the period from January 2013 to August 2014 vide the impugned demand notice which is arbitrary and unreasonable.

3.Heard the learned Counsel appearing for the respondents and perused the materials.

4.The main ground on which the demand notice is being challenged is the order of the Division Bench dated 16.06.2015 in WA.Nos.918 of 2013, etc., by which the earlier interim order was extended as under:-

"Learned counsel for the parties state that as recorded in the order

dated 05.05.2005, reported in 2005 (5) SCC 1 (State of U.P vs. Jai Bir Singh), the question of law has been referred to the Larger Bench of the Honourable Supreme Court, i.e. whether the Employees' State Insurance Act, 1948, would apply to educational institutions. Interim orders have been operating in the present matters.

2.In view of the aforesaid position, the writ appeals and the writ petitions are disposed of by agreement that the interim orders would continue till the disposal of the matter by the Honourable Supreme Court and the parties would naturally remain bound by the legal position enunciated by the Honourable Supreme Court on such decision being rendered. No costs. Consequently, connected miscellaneous petitions are closed."

5.A reading of the above order makes it is clear that it was passed upon the consent of both the parties that they would be bound by the outcome of the decision by the Hon'ble Supreme Court of India in the larger bench reference in the ***Jaibir Singh***'s case and that till such reference was answered, the order of stay shall continue. However, the Full Bench of this Court in ***All India Private Educational Institutions Association represented by its State General Secretary v. State of Tamil Nadu and***

Others [WP.No.34236 of 2019 etc., batch, dated 29.07.2020] has held that the decision regarding the validity of the Government Order could be independently taken up, and there was no justification to await the decision of the Hon'ble Supreme Court. The Full Bench has also concluded that the notification extending the Act to educational institutions was valid and constitutional. It further held that the earlier orders of the Division Bench were merely interim in nature, without adjudicating the rights of the parties.

6.In fact, this Court has previously dealt with a similar matter in ***Idhaya College for Women and others v. The Government of Tamil Nadu [WP(MD) No.11404 of 2021, batch dated 28.11.2025]*** and has held that the since the extension of interim stay was granted with the consent of both the educational institutions and the ESI Corporation, the contributions and other claims made can be recovered except the interest portion considering the principles of equity. The relevant portions are extracted as under:-

> *"25.The special facts of this case, require the exercise of power under Article 226 of the Constitution of India to ensure*

equity. Since the litigation was initiated by the educational institutions, they should pay the contribution for the entire period 29.12.2010 to 30.09.2019. Since the ESIC itself agreed to await the larger bench decision of the Hon'ble Supreme Court and not to go by the dates on which the 'contributions fell due' as per the Regulation - 31, it cannot now claim a huge amount as interest from the above said date, as per Regulation 31-A, as if it is the employee who failed to pay on the respective dates.

26.Since these are educational institutions, the interest of the parties will be better served that the interest portion is not recovered by the Respondent ESI Corporation. After the Respondent ESI Corporation has agreed to postpone the implementation of the notification extending the Act till the pronouncement of the larger bench decision of the Hon'ble Supreme Court of India, it would be fair and equitable that the contributions due is collected without interest.

27.In light of the above discussion, this Court issues the following directions:-

> *(1)The orders passed under Section 45A of the Act, in all these cases, assessing the contribution payable are upheld. However, the consequential orders enforcing the arrears shall remain set aside, inasmuch as they seek to recover interest for the period from 29.12.2010 till 30.09.2019.*

(2)The ESI Corporation is entitled to recover the entire contributions and the other claims made, except the interest portion for the period specified above and accordingly the total amount due shall be reworked.

(3)As per the rework, the petitioners shall pay the entire demand, within a period of six months from the date of receipt of a copy of this order, in installments. On such payment, all the garnishee orders, etc., freezing their bank accounts shall come to an end and the educational institutions would be free to operate those accounts.

(4)If the entire amount is already realised and if there is an excess as per the above calculation, the same shall be refunded to the educational institutions within eight weeks from today."

7.Following the same, this writ petition is disposed of with the following directions:

(1) The impugned demand notice is valid insofar as it relates to the payment of ESI Contribution of Rs.1,82,325/- for the period from January 2013 to August 2014. The same shall be paid within a period of within a period of six months from the date of receipt of a copy of this order.

(2) However, it is clarified that the petitioner educational institution shall not be required to pay any interest for the period.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

16.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
gk

To

The Principal Secretary to Government,
State of Tamil Nadu,
Labour and Employment Department,
Fort St.George,
Chennai – 600 009.

B.PUGALENDHI, J.

gk

WP(MD)No.24035 of 2023

16.12.2025