



W.P.Nos.8121, 8201, 33538, 33541 & 33542 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:
18.08.2023

Pronounced on:
18.01.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.8121, 8201, 33538, 33541 & 33542 of 2022

and

W.M.P.Nos.8209 to 8211, 8103, 8105, 8108, 32998, 33001 & 33002
of 2022

W.P.Nos.8121 & 8201 of 2022:

St.Joseph's Convent Anglo-Indian Girls' Higher Secondary School,
Rept. By its Correspondent,
St.Joseph Convent Road,
Coonoor – 643 102, The Nilgiris District.

.. Petitioner
(in W.P.No.8121 of 2022)

St.Joseph's Boys' Anglo Indian Higher Secondary School,
Rept. By its Correspondent,
College Road, Coonoor,
The Nilgiris – 643 102.

.. Petitioner
(in W.P.No.8201 of 2022)

Vs.

1.The Secretary,
Department of Municipal Administration and Water Supply,
The Government Secretariat,
Fort St. George, Chennai – 600 009.

2.The Commissioner,
Municipal Administration,
Commissionerate of Municipal Administration,
Chepauk, Chennai – 600 005.



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3.The Commissioner / The Executive Authority,
Coonoor Municipality,
Coonoor – 643 102,
The Nilgiris District.

4.The Recovery Officer,
Coonoor Municipality,
Coonoor – 643 012,
The Nilgiris District.

5.The District Educational Officer,
The Office of the District Educational Officer,
Coonoor – 643 102,
The Nilgiris District.

.. Respondents
(in both cases)

W.P.Nos.33538, 33541 & 33542 of 2022:

St.Antony's Anglo Indian High School,
Rept. By its Correspondent,
3(2), Ruckmani Lakshmipathy Salai,
Pudupet, Chennai – 600 002.

.. Petitioner
(in W.P.No.33538 of 2022)

St.Mary's Anglo Indian Higher Secondary School,
Rept. By its Correspondent,
110, Armenian Street,
Chennai – 600 001.

.. Petitioner
(in W.P.No.33541 of 2022)

Francis Xavier Anglo Indian Higher Secondary School,
Rept. By its Correspondent,
209, Prakasham Salai,
Muthial Pet, George Town,
Chennai – 600 108.

.. Petitioner
(in W.P.No.33542 of 2022)

Vs.



1.The Secretary,
Department of Municipal Administration and Water Supply,
The Government Secretariat,
Fort St. George,
Chennai – 600 009.

2.The Commissioner,
Chennai Municipal Corporation,
Ripon Building,
Chennai – 600 003.

3.The Assistant Revenue Officer,
Zone-V, Revenue Department,
Greater Chennai Corporation,
61, Basin Bridge Road,
Old Vannarappettai,
Chennai – 600 021.

.. Respondents
(in all cases)

Prayer in W.P.No.8201 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Demand dated 10.11.2021, in Na.Ka.No.823/2018/A1, in Assessment Nos.065/014/00250 to 065/014/00253, and the Distraint Proceedings dated 22.03.2022, in Assessment Nos.065/014/00250 to 065/014/00253, on the file of the 3rd respondent, and quash the same directing the 3rd respondent to abide by the directions of this Court dated 03.01.2020 in W.P.No.29269 of 2018.

Prayer in W.P.No.8121 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Demand dated 10.11.2021, in Na.Ka.No.823/2018/A1, in Assessment



Nos.065/010/00384 to 065/010/00389, and the Dstraint Proceedings dated 21.03.2022, in Assessment Nos.065/010/00384 to 065/010/00389, on the file of the 3rd respondent, and quash the same directing the 3rd respondent to abide by the directions of this Court dated 03.01.2020 in W.P.No.29269 of 2018.

Prayer in W.P.No.33538 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records, pertaining to the impugned Assessment Order, dated 24.05.2018 in 6/18-19/144241 on the file of the 2nd respondent, and the consequential demand notice dated 03.10.2022 in Z.O.V.R.D.C.No.R1/DN.61/SPL/2022, on the file of the 3rd respondent, in so far as it imposes property tax in respect of the Anglo-Indian Aided High School of the petitioner and quash the same.

Prayer in W.P.No.33541 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records, pertaining to the impugned Assessment dated 20.06.2018 in Order No.6/18-19/194661 on the file of the 2nd respondent, and the consequential Bill dated 25.11.2022 in No.05-060-07941-000, on the file of the 3rd respondent, in so far as it imposes property tax in respect of the Anglo-Indian Aided Anglo-Indian Higher Secondary School of the petitioner and quash the same.

Prayer in W.P.No.33542 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records, pertaining to the impugned Assessment order, dated



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28.05.2018 in 6/18-19/159522, on the file of the 2nd respondent, and the consequential impugned Proceedings dated 17.11.2022 in No.Ma.A.5.Va.Thu.Na.Ka.No.A1/4812/2022, on the file of the 3rd respondent in so far as it imposes property tax in respect of the Anglo-Indian Aided Higher Secondary School of the petitioner and quash the same.

(In all cases):

For Petitioner(s) : Dr.Fr.A.Xavier Arulraj,
Senior Counsel
for Father Xavier Associates

For RR1, 2, 4 & 5 in W.P.Nos.
8121, 8201 of 2022, R1 in
W.P.Nos.33538, 33541 &
33542 of 2022 : Mr.J.C.Durairaj
Additional Government Pleader

For R3 in W.P.Nos.8121
& 8201 of 2022 : Mr.P.Srinivas
Standing Counsel

For RR 2 & 3 in W.P.Nos.
33538, 33541 & 33542 of
2022 : Ms.K.Aswini Devi
Standing Counsel

COMMON ORDER

By this common order, all these writ petitions are being disposed off. In these writ petitions, the respective writ petitioners have challenged the respective assessment orders demanding property tax from them on the buildings where schools are being run by them.



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2.In the school buildings, the respective writ petitioners are running their schools where the petitioners offer also self financing courses. They are also in receipt of “deficit grant” from the Government of Tamil Nadu under the Code of Regulations for Anglo Indian Schools, Tamil Nadu.

3.The demand have been made on the petitioners pursuant to amendment to Section 83(1)(c) of the Tamil Nadu District Municipalities Act, 1920 and Section 101(c) of the Chennai City Municipal Corporation Act, 1919 in the year 2018 denying the exemption on all the building.

4.Both Section 83(1)(c) of the Tamil Nadu District Municipalities Act, 1920 and Section 101(c) of the Chennai City Municipal Corporation Act, 1919 read almost identically. They are *pari-materia* with each other.

5.There is however some confusion regarding the scope of exemption under these provisions after amendment in 2018 which have given rise to these cases.



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6.For the sake of clarity, both pre-2018 amendment and post amendment to Section 83(1)(c) of the Tamil Nadu District Municipalities Act, 1920 and Section 101(c) of the Chennai City Municipal Corporation Act, 1919 are reproduced below:-

Section 83(1)	The Tamil Nadu District Municipalities Act, 1920.	
General Exemptions:---		
The following buildings and lands shall be exempted from the property tax:		
	Before Amendment	After Amendment in 2018
(C)	Buildings used for educational purpose including hostels attached thereto, public buildings and places used for the charitable purpose of sheltering the destitute or animals and libraries and playgrounds which are open to the public	Buildings used for educational purpose including hostels and libraries, run by the Government or municipality or any other local authority or institutions aided by the Government and buildings used for charitable purpose of sheltering the destitute or animals and orphanages, homes and schools for the deaf and dumb, asylum for the aged and fallen women and such similar institutions run purely on philanthropic lines as are approved by the council: Provided that the buildings used for educational purpose by the Government aided institutions for conducting self-financing courses shall be subject to levy of property tax;"
Section101	Chennai City Municipal Corporation Act, 1919	
General Exemptions:---		
The following buildings and lands shall be exempted from the property tax:		
	Before Amendment	After Amendment in 2018
(C)	Places used for the charitable purpose of sheltering the destitute or animals or orphanages, homes and schools for	Buildings used for educational purposes including hostels and libraries, run by the Government or corporation or any other local authority or institutions aided by



Section 83(1) The Tamil Nadu District Municipalities Act, 1920.	
	deaf and dumb, asylum for the aged and fallen women and such similar institutions run purely on philanthropic lines as are approved by the Council the Government and buildings used for charitable purpose of sheltering the destitute or animals and orphanages, homes and schools for the deaf and dumb, asylum for the aged and fallen women and such similar institutions run purely on philanthropic lines as are approved by the council: Provided that the buildings used for educational purpose by the Government aided institutions for conducting self-financing courses shall be subject to levy of property tax:"

7.It is the argument of the learned senior counsel for the petitioner that the schools run by the petitioner are in receipt of “deficit grant” from the Government of Tamil Nadu under the provisions of Code of Regulations for Anglo Indian Schools in Tamil Nadu and therefore there is no scope for demanding property tax from the petitioners on all the buildings of the petitioner merely because in some of the school buildings, the respective petitioners are also running self financing schools which is not in receipt of any “deficit grant” from the Government of Tamil Nadu under the provisions of Code of Regulations for Anglo Indian Schools in Tamil Nadu.

8.It is submitted that since the petitioners as an Anglo Indian



School are receiving “deficit grant” from the Government and fall within the definition of an “aided school”, they cannot be made liable to pay tax on the entire building.

9.It is submitted that under Section 83(1)(c) of the Tamil Nadu District Municipalities Act, 1920, as amended on 25.01.2018 exemption was granted to all the aided educational institutions from payment of property tax.

10.It is submitted that the Tamil Nadu Fee Determination Committee has held that Anglo-Indian Schools are “Aided” by its Order dated 03.06.2011 pursuant to directions of this Court in its Order dated 07.10.2010 in W.P.No.21515 of 2010.

11.It is submitted that the petitioner School in W.P No. 8201/2022 namely St. Joseph's Boys' Anglo Indian Higher Secondary School is an “aided school” and is receiving deficit Grant for Standards from I to XII. It is submitted that the Petitioner School has 4 Assessments for a total area of 1,56,173 sq. ft and the educational authorities have assessed 63,861 sq.ft. alone used for the Aided Anglo Indian School. It is



submitted that the ICSE School has a separate Assessment Order for an extent of 25003 sq. ft. It is submitted that the impugned demand is for 5 Assessments all mixed up, without segregating the buildings used for Aided Anglo Indian School.

12.It is submitted that the petitioner school is using a built up of area of 63,861 sq.ft. for the aided sections. The total built up area as per the calculation of 3rd respondent is 1,80,376 s.q. ft. and that the petitioner is willing to pay a property tax for the 1,16,515Sq.ft which are used for the other unaided and residential purposes. It is submitted that the educational agency has already paid an amount of Rs. 24,05,415/- on 22.11.2018, 3.11.2020 and 21.10.2021, to avoid distraint proceedings.

13.It is submitted that the petitioner School in W.P No. 8121/2022 namely St. Joseph's Convent Anglo-Indian Girls' Higher Secondary School is aided and receiving Grant for Standards from I to X and the Higher Secondary, (XI & XII) are unaided and Self-Financing.

14.It is submitted that there are 6 Assessment Orders in the Campus and the total Assessment area is 97,302 sq. ft. out of which the



petitioner School is using 43,125 Sq. ft. for the aided sections of I Std to X Std.

15.It is submitted that in the campus of the petitioner school, there are 18 buildings and that the 3rd respondent has allotted Six Assessment Numbers for various buildings. Among the six Assessments, the petitioner school is functioning in three Assessments Nos: 065/010/00384, 065/010/00388 and 065/010/00389. It is submitted that the total built up area as per the calculation of 3rd respondent is 97,302 S.q. ft. and that the petitioner school is using a built up of area of 43,125 sq.ft. for the aided sections. The petitioner is willing to pay a property tax for 54,177Sq.t. The petitioner school is seeking exemption to the built up area used for aided school as certified by the DEO.

16.It is submitted that the respondents has not distinguished the buildings that are aided and unaided and proceeded to levy tax indiscriminately, irrespective of tax exemption.

17.It is submitted by the petitioner school in W.P.No.33538 of 2022 , that the petitioner school has submitted a detailed representation



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to the 3rd respondent in W.P.No.33538 of 2022 on 20.10.2018, 22.09.,2020, 31.12.2020,13.09.2021 and 17.05.2022 along with the documents to prove that the petitioner school is a aided school and it is receiving grant from the Government and without considering it the 3rd respondent issued a demand notice dated 03.10.2022 in Z.O.V.R.D.C.No. RI/DN.61/SPL/2022 for arrears of Tax to the tune of Rs.7,90,962/-.

18.It is submitted by the petitioner school in W.P.No.33541 of 2022 that a preliminary notice was issued to the petitioner school to levy property tax on the buildings in the petitioner school, from the financial year 2017-2018 (II). New Property Assessment under Form 6, has been issued on 20.06.2018 to the petitioner school levying an amount of Rs. 96,928/-as half yearly tax.

19.It is submitted by the petitioner school in W.P.No.33542 of 2022 that the respondent corporation issued an Assessment order dated 28.05.2018, in Notice No.6/18-19/159522, levying an amount of Rs.75,888/-as half yearly tax to the petitioner school.

20.It is submitted that the impugned assessment notices and



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demand notices in W.P.Nos.33538, 33541 and 33542 of 2022 have been issued without taking note of Section 101(c) of the Chennai City Municipal Corporation Act, 1919 as amended which grants exemption from property tax. It is further submitted that there is no law either earlier or amendment, to levy property tax on the aided institutions and that the petitioner stands statutorily exempted under the operation of law.

21.The learned counsel for the first respondent and third respondent in W.P Nos. 8121/2022 and W.P No. 8201/2022 submitted that the impugned proceedings is perfectly valid under law and there are no illegalities or infirmities in the same. It is further submitted that the Petitioner School is liable to be levied the property tax as per the Amendment to the District Municipalities Act by Act VI of 2018 and that as per the said Amending Act, the Schools that are aided alone are continued to the Exemption granted under Section 83 of the Municipalities Act and the Schools that are not getting the Aid from the Government are not entitled to the exemption from levy of property that was earlier enjoyed by them.

22.It is further submitted that there is no classification as to



whether the school is a profit making institution or not. It is further submitted that the fact remains that the Property tax is a tax on the property and not on the income of the school and therefore, the property tax is leviable on the petitioner schools.

23.It is further submitted that the Municipality being an unit of local self government has been empowered to administer its local area and undertake the collection of the taxes for its expenses from the residents and that the property tax is one of the major sources of revenue for the carrying out the statutory functions and for providing various basic amenities to the residents.

24.It is further submitted that there are no violations on the part of the respondent herein and that the petitioner being an owner of the building within the local limits of the respondent is liable for the levy of property tax and accordingly, the tax is levied as per the provisions of the Act. It is further submitted that the Petitioner is not a fully aided institution and only if any shortfall arises in meeting the expenses of the school out of the fees collected, the state meets the shortfall and therefore, such a grant is not an aid as per the very meaning of the word



Aided School and therefore the Petitioner is not entitled to any relief.

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25.The learned Counsel appearing for the third respondent, Greater Chennai Corporation in W.P.Nos.33538, 33541 and 33542 of 2022 submitted that that the property taxes were levied as per provisions of sections 99 and 100 of the Chennai City Municipal Corporation Act 1919 for the buildings within the limits of the City of Chennai and that the property tax assessment is made on the basis of the extent, type of roof and usage of the property after giving the necessary rebate, if applicable.

26.It is further submitted that the Annual rental value of the property is fixed in accordance with the Usage of the property at the time of assessment based on the Basic rate. The usage of the building is devised into two categories, viz. 1) Buildings used for residential purposes and (2)Buildings used for non-residential purposes.

27.It is submitted that the total build-up area and all infrastructures provided in the building have been taken into account for the purpose of assessment of property tax. The open area has not been assessed.

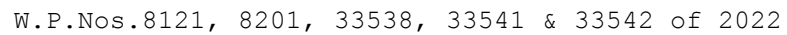


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28.It is submitted that the petitioner being an educational institution was initially exempted from the property tax as per Section 101 of the Chennai City Municipal Corporation Act, 1919. It is submitted that the Government of Tamil Nadu has amended Section 101 of the Chennai City Municipal Corporation Act, 1919 and has notified the same in the Government Gazette dated 07.03.2018 bringing all the educational institutions which are run for profit except the educational institutions run by the Government.

29.It is submitted that the above-mentioned amendment was challenged in WP. Nos.18008 of 2018 (batch) which was heard by the Hon'ble Division Bench of the High Court. The Hon'ble Division Bench dismissed all the Writ Petitions by upholding the validity of the Amendment Act by Order dated 13.09.2019.

30.It is submitted that some of the parties to the above batch of Writ Petition had filed SLP(C) No. 005412 I2023 and other SLPS before the Hon'ble Supreme Court and the same is pending for Hon'ble Supreme Court's consideration.



32.If these provisions are dissected and read, any confusion that
ills may stand dispelled and the scope of exemption under the
ective enactments will be revealed.

33. Section 101(c) of the Chennai City Municipal Corporation Act, 1919 and Section 83(1)(c) of the Tamil Nadu District Municipalities Act, 1920 can be dissected to read as under for a proper understanding the scope of exemption:-

General Exemptions: Following buildings and lands shall be exempted from the property tax:			Exception to Exemptions
1	2	3	4
Building used for educational purpose including hostels and libraries run by the Government and	Land and Buildings of institutions aided by the Government.	Building used for charitable purpose of	Provided that the buildings used for educational purpose by the Government aided institutions for conducting self-
		sheltering destitute;or	
		sheltering animals, and	
		sheltering orphanages	
		homes and schools for the	



General Exemptions: Following buildings and lands shall be exempted from the property tax:			Exception to Exemptions
Municipality* or any other local authority.		deaf and dumb;	financing courses shall be subject to levy of property tax.”
		asylum for the aged and fallen women; and	
		such similar institutions run purely on philanthropic lines as are approved by the council.	

NOTE: ***Corporation** in Section 101(c) of the Chennai City Municipal Corporation Act, 1919.

34. Buildings used for running schools in **Column 1** in the above **Table** are exempted from payment of tax. Similarly, land and buildings of institutions aided by the Government in **Column II** in the above **Table** are exempted.

35. Similarly, building used for the specified charitable purpose of sheltering the destitute or animals and orphanages, homes and schools for the deaf and dumb, asylum for the aged and fallen women etc specified in **Column III** in the above **Table** are also exempted from payment of property tax.

36. The thumb rule under Section 101(c) of the Chennai City



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Municipal Corporation Act, 1919 and Section 83(1)(c) of the Tamil Nadu District Municipalities Act, 1920 is that buildings used for educational purpose are exempted from payment of property tax.

37. Under the proviso to these provisions, buildings used for **educational purpose** by the **Government aided institutions** for conducting self-financing courses are however not exempted from payment of property tax.

38. Since these provisions under the respective enactments are taxing provisions, there is no scope for interpreting the provisions liberally.

In **Cape Brandy Syndicate vs. The Commissioners of Inland Revenue**,

[1921] 1 KB 64., Justice Rowlatt, J. observed as under:-

“In a taxing statute one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can look fairly at the language used.”

39. This passage has been frequently quoted by the Hon'ble Supreme Court in the context of the taxing enactments. [See **Baidyanath**



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Ayurved Bhawan (P) Ltd. v. Excise Commr., (1971) 1 SCC 4 ;CIT v. Yokogawa India Ltd., (2017) 2 SCC 1 ;CCE v. Doaba Steel Rolling Mills, (2011) 10 GSTR 104].

40. Therefore, if the benefit of exemption is available to these petitioners, it has to be extended by reading the provision plainly. On the other hand, if the benefit of exemption is not available, there is no scope for extending it to the petitioners by invoking any of the rules of interpretation.

41. All aided schools are excluded from the purview of the Fee Determination Committee under the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009. As per Section 3(1) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009, no Government school or aided school shall collect any fee in excess of the fee fixed by the Government for admission of pupils to any Standard or course of study in that school.

42. Section 2(j) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 defines “Private Schools”. Section 2(j) of



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the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009

reads as under:-

“Section 2: In this Act, unless the context otherwise requires,-

*(j) “Private schools” means any pre-primary school, primary school, middle school, high school or higher secondary school established and administered or maintained by any person or body of persons and recognized or approved by the Competent Authority under law or **Code of Regulation** for the time being in force, but does not include:-*

i.an aided school;

ii.a school established and administered or maintained by the Central Government or the State Government or any local Authority;

iii.a school giving, providing, or imparting religious instruction alone but not any other instruction.”

43.As per Clause 1 to Explanation to Section 2(j) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009, Code of Regulation means:-

- i.the **Code of Regulation for Approved Nursery and Primary Schools**,;
- ii.**Code of Regulations for Matriculation Schools**; and
- iii.**Code of Regulations for ‘Anglo-Indian Schools’**.



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44.As per Clause 3to Explanation to Section 2(j) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009, “aided schools” conducting any classes or courses, for which no money is paid as aid out of State Funds, shall be construed as a “**private school**” in so far as such classes or courses are concerned. Implying, fees can be fixed.

45.Under Article 127 of the **Code of Regulations for ‘Anglo-Indian Schools’** grants are given to Anglo Indian Schools in Tamil Nadu. Article 127 of the aforesaid Code reads as under:-

“127. Grants are given in aid of -

- (1) Teaching*** Article 132.
- (2) Buildings*** - The erection, enlargement and purchase of school buildings and boarding houses for ***educational institutions*** for extensive repair and the purchase of land for school or boarding house purposes. Article 144.
- (3) Equipment*** - The purchase of furniture for schools and boarding houses equipment, apparatus and appliances for schools, books for school and staff libraries and plant, materials and tools for laboratories and workshops. Article 151.
- (4) Boarding*** - The boarding and schooling of orphan and very poor children, Article 156.
- (5) Boarding*** - The boarding and schooling of poor pupils residing in places where suitable schools are not available. Article 159.
- (6) Cadet Corps*** - Maintenance of Cadet Corps. Article 162.



- (7) **Food** - Providing food and clothing for poor pupils in the City of Chennai. Article 164.
- (8) **Fees** - Remitting the fees of and providing books for poor pupils. Article 166.
- (9) **Rent** - The rent of boarding houses. Article 168.
- (10) **Medical inspection** - The medical inspection of boys in Standard VI to XI. Article 170.”

46.As per Section 130 of the **Code of Regulations for ‘Anglo-Indian Schools’**, no institution shall be allowed to spend any portion of its income for any purpose other than educational purposes. Section 130 of the aforesaid Code reads as under:-

“130. No aided institution shall be allowed to spend any portion of its income for other than educational purposes.”

47.Under Article 131 of the aforesaid Code there are certain exclusions for grants. Article 131 of the aforesaid Code reads as under:-

“131. No grants are given

- a)to any school which is not recognised under the Code;*
- b)on account of instruction in religious subjects;*
- c)to any school with an average daily attendance of less than 25 European and Anglo-Indian Pupils, except in places where there is only a small Anglo-Indian population or where, in the opinion of the Department, such a school is necessary;*
- d)to any school or section of a school which the*



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Department declares to be unnecessary or unsuited to the requirements of the locality;

e)to any school in which the members of the teaching staff have exceeded the age limits prescribed under Article 28-A”

48. Admittedly the schools of these petitioners are “institutions” within the meaning of Section 2(2) of the Tamil Nadu Aided Institutions Prohibition of Transfers of Property Act, 1948. Transfer, use or dis-use of the property contrary to Section 3(1) of the aforesaid Act is prohibited unless permitted by the Government under Section 3(2) of the aforesaid Act which has been extracted below.

49. Although the expression “institution” has been used in the aforesaid Code, there is no separate definition for the expression “institution”.

50. The expression “institution” has been defined in Sub section (2) to Section 2 of the Tamil Nadu Aided Institutions Prohibition of Transfers of Property Act, 1948.

51. Section 2(2) of the Tamil Nadu Aided Institutions Prohibition of Transfers of Property Act, 1948 reads as under:-



“2(2) "institution" means-

- (a) *any college, school or other place in the [State of Tamil Nadu] which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants;*
- (b) *any hospital, dispensary or nursing home in the [State] and includes quarters for the residence of doctors, nurses and servants;*
- (c) *any other institution or [class of institutions] in the [State] notified by the Government in the [Fort St. George Gazette];”*

52.As per Section 3 of the Tamil Nadu Aided Institutions Prohibition of Transfers of Property Act, 1948, there is a Prohibition for transfer of lands and buildings of the “institution” without the permission of the Government where any land or building was acquired, constructed, improved or altered for the purpose of “any institution, with the aid of any grant made from the Revenue of the Government or any land or building which was transferred for use for the purpose of any institution.”

53.Thus, transfer without the permission of the Government is prohibited under Sub section (2) to Section 3 of the aforesaid Act.



54. Section 3 of the Tamil Nadu Aided Institutions Prohibition of

Transfers of Property Act, 1948 reads as under:-

“3. Prohibition of transfer of lands and buildings without permission from Government –

(1) Where before or after the commencement of this Act -

(a) any land or building has been acquired constructed, improved or altered for any purpose of any institution, with the aid of any grant made from the 'revenues of the Government, or;

(b) any land or building has been transferred by for use for the purposes of any institution, then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2) nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, by order, permit the transfer of any such land or building if-

i. the transfer is made in furtherance of



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the purposes of the institution or of similar purposes approved by the Government and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes;

ii.the transfer is made only in part in furtherance of the purposes aforesaid, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (a) or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be;

iii.the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub- section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be.

Explanation. *When granting permission under clause (i) or (ii) for the transfer of any land or building, the Government may impose such conditions as they deem fit to ensure that the assets resulting from the transfer are utilised wholly or in part, as the case may be, in furtherance of the purposes referred to in those clauses; but a contravention of any such condition imposed on the transferor shall not invalidate the transfer.*

(3) If any such land or building is transferred without such permission, the transfer shall be



null and void.”

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55.Thus, a school or a college which is intended for educational purpose including its libraries, playgrounds, hostels, quarters of residence of teachers and servants are institution for the purpose of the Tamil Nadu Aided Institutions Prohibition of Transfers of Property Act, 1948.

56.The attempt of the petitioner to get to fees approved by the Fee Fixation Committee constituted under the Act was rejected by an order dated 03.06.2011 by the Committee on the ground that the petitioner was an aided institution as it was receiving ‘deficit grant’.

57.It is therefore submitted that since the petitioners are “aided institutions” though are conducting self-financing courses, they are still entitled for the exemption under the provisions of Section 83(1)(c) of the Tamil Nadu District Municipalities Act, 1920 and Section 101(c) of the Chennai City Municipal Corporation Act, 1919.

58.Admittedly, the petitioners are “minority institution” within the



meaning of Explanation to Rule 3 of the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977 issued vide G.O.Ms.No.2080, Education dated 14th September 1977 read with Rule 3 of the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977.

59.Merely because the petitioner may not a private school within the meaning of Section 2(j) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 would not mean that the petitioner is not a “private school” for the purpose of other enactments including the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977, since the petitioner is in receipt of “Government Aid” by way of a “Deficit Grant” under the Code.

60.As far as the exemption from payment of tax under Section 83(c) of the Tamil Nadu District Municipalities Act, 1920 and Section 101 (c) of the Chennai City Municipal Corporation Act, 1919 are concerned, the exemptions are available not only to buildings used for educational purposes but also for buildings used for hostels and libraries run by the Government or Municipalities or Local Authorities and



buildings used for charitable purpose of sheltering the destitute or animals and orphanages, homes and schools for the deaf and dumb, asylum for the aged and fallen women and such similar institutions run purely on philanthropic lines as are approved are exempted apart from land and buildings of institutions aided by the Government.

61.However, as per the *proviso* to Section 83(c) of the Tamil Nadu District Municipalities Act, 1920 /Section 101(c) of the Chennai City Municipal Corporation Act, 1919, building used for educational purposes by Government Aided Institutions for conducting self-financing courses are not exempted. The exemption that was wider earlier has been restricted by an amendment to the respective Acts in the year 2018.

62.The intention of legislature in excluding building used for educational purposes by Government Aided Institutions for conducting self-financing courses appears to ensure that such educational institutions do not end up getting twin benefit of exemption under Section 83(c) of the Tamil Nadu District Municipalities Act, 1920 /Section 101(c) of the Chennai City Municipal Corporation Act, 1919 and Government aid under the provisions of the Government Orders and various Act, referred



to *supra*.

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63. Therefore, to the extent building of the petitioner was used for self financing course, there is no scope for extending exemption to the petitioner it was built or maintained with the Government Aid.

64. It would involve a fact finding exercise. Therefore, the demands are quashed and cases are remitted back to the respondents to conduct a joint inspection of the buildings in presence of the District Educational Officer to ascertain whether the buildings where self-financing courses are being conducted were built with or without Government aid.

65. If self financing courses are being conducted in the buildings built with Government aid, the benefit of exemption under Section 83(1)(c) of the Tamil Nadu District Municipalities Act, 1920/Section 101(c) of the Chennai City Municipal Corporation Act, 1919 cannot be extended to the petitioner. On the other hand, if the buildings were not built with Government aid, the benefit of exemption can be granted. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.



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66. Accordingly, these Writ Petitions are disposed of with the above observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

18.01.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1. The Secretary,
Department of Municipal Administration and Water Supply,
The Government Secretariat,
Fort St. George, Chennai – 600 009.
2. The Commissioner,
Municipal Administration,
Commissionerate of Municipal Administration,
Chepauk, Chennai – 600 005.
3. The Commissioner / The Executive Authority,
Coonoor Municipality,
Coonoor – 643 102,
The Nilgiris District.
4. The Recovery Officer,
Coonoor Municipality,
Coonoor – 643 012,
The Nilgiris District.



W.P.Nos.8121, 8201, 33538, 33541 & 33542 of 2022

5.The District Educational Officer,
The Office of the District Educational Officer,
Coonoor – 643 102,
The Nilgiris District.

6.The Commissioner,
Chennai Municipal Corporation,
Ripon Building,
Chennai – 600 003.

7.The Assistant Revenue Officer,
Zone-V, Revenue Department,
Greater Chennai Corporation,
61, Basin Bridge Road,
Old Vannarappettai,
Chennai – 600 021.

C.SARAVANAN, J.

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