IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4172 of 1996

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Smt.Kamla Devi Kamla wife of Sri Jai Narayan Choudhary, resident of Govind Mitra Road, P.S. Pirbahore, Patna.

.... Petitioner/s

Versus

1. State of Bihar.
2. Patna Municipal Corporation, Patna.
3. Chief Executive Officer, Patna Municipal Corporation, Patna.
4. Executive Officer, Patna Municipal Corporation, Patna.
5. Deputy Administrator, Patna Municipal Corporation, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 8271 of 1997

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1.Raghvendra Pd. Narayan Singh son of Late Harihar Prasad Narayan Singh.
2.Ramendra Prasad Narayan Singh.
3. Devendra Prasad Narayan Singh.
4. Jitendra Prasad Narayan Singh.

Respondent nos. 2 to 4 are sons of Sri Raghv endra Prasad Narayan Sikngh residents of "Amawan Kothi", Off Frazer Road, P.S. Kotwali, Patna.

.... Petitioner/s

Versus

1.The State of Bihar.
2. Patna Municipal Corporation, Patna.
3. The Administrator, Patna Municipal Corporation, Patna.

.... Respondent/s

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Appearance :
(In CWJC No. 4172 of 1996)
For the Petitioner/s : Mr. Abhinah Raj, Adv.
For the Respondent/s : Mr.
(In CWJC No. 8271 of 1997)
For the Petitioner/s : Mr. Arun Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 03-02-2015

Shivaji Pandey,J Heard counsel for the petitioners and the State. No one appears on behalf of Patna Municipal Corporation.

CWJC No. 4172 of 1996 has been filed for quashing the Demand Notice dated 23rd March 1996 by which the petitioner has been asked to deposit Rs.29,075.10 by way of municipal tax for the years 1993-94 to 1995-96 and in CWJC No. 8271 of 1997 petitioner is challenging the imposition of realization of Latrine Tax by the Patna Municipal Corporation (in short, the 'Corporation').

The facts of CWJC No. 4172 of 1996 are as follows:

The assessment of Annual Rental Value of Holding Rules was introduced in the year 1993 which was declared ultra vires in the case of Sachidanand Kishore Prasad Sinha, 1994(1) PLJR 568 but the judgment was set aside in appeal by the Hon'ble Supreme Court vide judgment reported in 1995(1) PLJR (SC) 86.

Claim has been made by the petitioners that the authorities put in motion assessment of annual rent with effect from 1st January 1996. Accordingly a final publication was made fixing the rental value under Section 149 of the Patna Municipal Corporation Act.

Further claim has been made that the Administrator, PMC published a notice in daily news paper 'Hindustan' dated 30th December 1995 thereby it was informed to the public that revised tax will be effective from 1st January 1996. Claim has been made that the petitioner deposited the full and final tax upto the year 1994-95 and during the pendency of the case before the Hon'ble Supreme Court, petitioners deposited the municipal tax amounting to Rs.15,000/-. Grievance has been raised that on 23rd March 1996 the respondents came with armed force and handed over demand notice dated 23rd March 1996 with a threat to deposit Rs.29,075.10 otherwise the property would be seized. Again on 23rd June 1996 respondents came with armed forces made same demand, claim has been made that the action of the respondents is highly illegal and not sustainable in law on t he ground that the tax has been deposited upto 1st January 1996 and the petitioners' liability starts thereafter the petitioners submits that they have already paid the amount which requires to be adjusted and whatever be the rest dues remains would be paid accordingly.

Further it has been submitted that tax on latrine by the Corporation is illegal, as there is no service latrine for removal of the night soil as all service latrines have been converted into septic tank latrine. Petitioners have also challenge the education tax.

In CWJC No. 8271 of 1997 petitioner is challenging the latrine tax claiming that it has illegally been imposed on the ground that all the service latrines have been converted into septic tanks latrine and no service is rendered in cleaning the latrine, urinal etc.

The Municipal Corporation has filed counter affidavit and justified its action. This been mentioned in the counter affidavit that the Corporation has provided the sewage system, ultimately water fall in the drainage constructed by the Municipality.

In view of the judgment of the Hon'ble Supreme Court the scheme framed for making assessment of the Municipal tax has been held to proper and, as such, this Court does not find any error in the order

Accordingly, both the writ petitions are dismissed.

(Shivaji Pandey,J)

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