

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 99 of 2015

Bhatkhande Lalitkala Shiksha Samiti Through Its Secretary, Rang Mandir Parisar,
Gandhi Chowk, Chhotapara, Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban
Adminsitration And Development, Mahanadi Bhawan, Naya Raipur, Dist.
Raipur (Chhattigarh)
2. Director, Urban Administration And Development Department, Mahanadi
Bhawan, Naya Raipur, Dist. Raipur (Chhattisgarh)
3. Municipal Corporation, Raipur, Through The Commissioner, Opp. General Post
Office, Purana Mukhyalaya, Jaistambh Chowk, Raipur, (Chhattisgarh)
4. Zone Commissioner, Municipal Corporation Riapur, Zone No. 7, Municipal
Corporation Raipur, Raipur (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Amrito Das, Advocate.
For Respondent/State	:	Shri R.K.Gupta, Dy.A.G.
For Respondent/Corporation	:	Shri Kashif Shakeel, Advocate.

Order On Board

10/07/2015

The petitioner has filed this petition aggrieved by coercive steps taken by the Corporation and its authorities in proceeding to issue warrant of attachment for distress sale towards recovery of property tax of Rs.4,27,429/-.

2. The sole submission of learned counsel for the petitioner is that in view of provisions contained in Section 136 (C) of the C.G.Municipal Corporation Act as amended vide Amendment Act of 2012, the petitioner being a registered institution with income tax department, is wholly exempted from payment of property tax. In response to notice issued by the Corporation, the petitioner/Society has submitted its objection, which has not been decided till

date though different dates of hearing were fixed and now, without deciding this issue, coercive steps have been initiated.

3. Learned counsel for the respondent / Corporation submits that if the petitioner has any grievance with regard to levability of the property tax, the petitioner has an alternative remedy of filing appeal under Section 184 of the Corporation Act. The other submission of learned counsel for the Corporation is that the writ petition has been filed by the Secretary of the Society whereas according to the bye-laws of the Act, the suit should have been filed by the President of the Society with previous sanction of the executive committee. Another objection of learned counsel for the Corporation is that the petitioner did not file objection within the stipulated time.

4. The Corporation is proceeding to recover property tax from the Society. There is a specific objection with regard to the institution being exempted from paying property tax under Section 136 (C) of the Corporation Act as amended by the Act of 2012. Prima facie material in the form of registration is also placed on record. In view of the provisions contained in Section 175 of the Corporation Act, if an objection has been raised, the authorities are obliged to first decide the objection. Without deciding the objection, distress proceedings were initiated to attach the property of the Society.

5. The objection with regard to the maintainability of the petition at the instance of the Secretary, cannot be upheld. These are writ proceedings. The Secretary of the institution has filed the petition. The objection that the reply was filed within the stipulated time, does not hold water because the document on record itself shows that the matter was listed for hearing before the Corporation

authorities on the objection of the petitioner but without taking any decision thereon, distress proceedings have been initiated. In so far as the alternative remedy is concerned, existence of alternative remedy is not absolute bar. Where the recovery of tax is being made without deciding the objection, which obliges the Corporation to consider before taking up distress proceedings, I am not inclined to throw this petition only on the ground of alternative remedy.

6. In view of above, I am inclined to protect the petitioner / Society till the objection of the petitioner is decided by the competent authority of the Corporation. It would be open for the competent authority to take appropriate decision on petitioners objection is decided by a speaking order, the respondent/ Corporation shall not take any coercive steps of recovery proceedings under the law.

The petition is accordingly finally disposed off.

Sd/-

(Manindra Mohan Shrivastava)
Judge