IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.9955 OF 2014
IN
WRIT PETITION NO.8865 OF 2013

Grampanchayat, Nimbhora,
through its Sarpanch ..APPLICANT

VERSUS

Mah. State Electricity Transmission
Co. Ltd., Jalgaon & ors. ..RESPONDENTS

Mr M.S. Taur, Advocate holding for Mr Amol N. Kakade, Advocate for applicant;
Mr S.V. Adwant, Advocate for respondent no.1;
Mrs Y.M. Kshirsagar, A.G.P. for respondent no.2

CORAM : N.W. SAMBRE, J.

DATE : 12th March, 2015

ORAL ORDER :

Writ Petition No.8865 of 2013 is by State Electricity Transmission Co., questioning the legality and validity of the communication issued by the applicant – Village Panchayat, Nimbhora demanding tax

2. The amount that was demanded appears to be for a period from 1985 to 2013 and total outstanding shown against the respondent No.1 herein is Rs.57,13,233/-. This Court, while protecting the interest of respondent No.1, by an order dated 22nd October, 2013 has directed

respondent No.1 to deposit amount of Rs.10,00,000/-.

3. The present civil application is moved by applicant – Gram Panchayat seeking permission to withdraw the amount of Rs.10,00,000/-.

4. An objection to the said prayer of the applicant is raised on behalf of respondent No.1 – transmission company on the ground that it is a `State' and as such, exempted from paying the village tax. In support of the same, provisions of Section 39 of the Electricity Act are sought to be pressed into service. In addition to above, Mr Advant, learned Counsel appearing on behalf of respondent No.1, while strenuously opposing the application has invited attention of this Court to sub section (8) of Section 129 of the said Act, so as to submit that claim to the extent of last three years is only permissible. He has also invited my attention to the judgment of this Court, in the matter of **Prakashchandra P. Panpalia and another Vs. Village Panchayat, Mandwa, reported in 2003 (1) ALL MR 1061.**

5. Having regard to the above referred objection, what is required to be taken note of is, it is not disputed that the demand of tax is based on statutory powers and the authority of the village panchayat. What is disputed is whether the tax is payable by respondent No.1 – Company and whether such demand is within the limitation.

6. The Supreme Court, time and again, has observed that the tax liability cannot be stayed as the authority which is entitled to use the tax amount for the benefit of the citizens, cannot run on the interim orders passed by this Court or the guarantees given by the assessee.

7. Even if we take into account the provisions of Sub section (8) of Section 129 of the said Act and embargo is put on the right of the Collector while issuing recovery certificate, however, the authority to demand tax is not disputed.

8. In view of above, it will be appropriate to allow the application seeking permission to withdraw the amount.

9. For the reasons stated herein above, civil application stands allowed in terms of prayer clause (B).

(N.W. SAMBRE, J.)

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