IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7939 OF 2013

Grampanchayat Kolvihire & others ... Petitioners

V/s.

Indian Seamless Metal Tubes Co.
Ltd. & others ... Respondents

Mr. P.B. Shah i/b. K.P. Shah for the petitioner.

Mr. Naushad Engineer, Counsel with Ms. Heta Merchant, Ms. Jheel Mehta i/b. Eternity Legal for respondent no.1.
Mr. N.P. Deshpande for respondent no.2.
Mr. P.G. Sawant, AGP for respondent no.3.

CORAM : ***NARESH H. PATIL AND***
***M.S. SONAK, JJ*.**

***14th December, 2015*.**

P.C.

Heard learned Counsel for the petitioner.

2. The petitioner Gram Panchayat challenges the decision taken by the Zilla Parishad dated 10th April, 2013 (annexed at page 142-A of the petition). The respondent was assessed to property tax for the year 2010-11 onwards. The respondent company filed an appeal before Panchayat Samiti. Thereafter they approached the Zilla Parishad. By

letter dated 15th April, 2013, respondent no.1 was informed about the decision taken by Zilla Parishad.

3. The learned Counsel for the petitioner submits that the respondent company approached the Panchayat Samiti at a highly belated stage. The appeal itself was not maintainable. The Zilla Parishad decided the appeal/proceedings initiated at the behest of the company. On extraneous grounds the Gram Panchayat had levied the property tax at Rs. 8/- per sq. feet whereas the Zilla Parishad decided to levy the tax at Rs.3/- per sq. feet.

4. Respondent no.1 filed affidavit-in-reply through Mr. Satyapal Puri. The deponent submitted that respondent no.1 has paid over entire sum of Rs. 42,21,872/- being taxes payable at the rate of Rs.3 per sq. feet. The Gram Panchayat accepted the said amount without any demur and protest. It is submitted that having accepted the said amount under the order, it is not open to the Gram Panchayat to challenge the same on the grounds raised herein. The learned Counsel placed reliance on the judgment reported in ***Pooran Chand Nangia Vs. National Fertilizers Ltd. {2003 Supp (4) SCR 531***.

5. Learned Counsel appearing for Zilla Parishad submits that in case the petitioners are aggrieved by the order, they have remedy to approach the State Government. State has sufficient powers to look into it by calling record in accordance with provisions of Section 155 of Bombay Village Panchayat Act.

6. The petition is pending since the year 2013. The issue concerning payment of property tax relates to the year 2010-11 onwards. We are of the view that the issue of payment of property tax of the Gram Panchayat is to be resolved at the earliest. The Gram Panchayat requires sufficient funds to carry out various beneficial schemes in larger public interest. It is advisable that litigation on such issues is minimized and curtailed to maximum extent possible. In the present set of the facts and circumstances, the petitioner seems to be not convinced with the view adopted by the Zilla Parishad in reducing the assessment done by the Gram Panchayat. It would have been more appropriate on the part of the Zilla Parishad to express its view elaborately, by giving sufficient reasons.

7. In the facts we are of the view that petitioner may file appropriate petition to the State Government within four weeks from today in connection with the subject issue raised in the petition. In case such a petition is filed, we direct the State Government to decide the petition by calling record and by according hearing to the affected parties as expeditiously as possible preferably within six months thereafter. The decision be taken on its own merits by exercising powers under Section 155 of the Bombay Village Panchayat Act.

8. It is clarified that we have not expressed any opinion on the merits. With aforesaid observations and directions, Petition is disposed of.

(M.S.SONAK, J.) **(NARESH H. PATIL, J.)**

L.S. Panjwani, P.S.