

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C) .No. 2480 of 2015 (H)

PETITIONER(S) :

THE PAYYANNUR EDUCATIONAL SOCIETY,
PAYYANNUR,
PAYYANNUR P.O.

REPRESENTED BY ITS PRESIDENT - K. RAMACHANDRAN.

BY ADVS.SRI.M.SASINDRAN

SRI.V.VENUGOPAL

RESPONDENT(S) :

1. THE TAHSILDAR, KANNUR
PIN - 670 001.

2. THE VILLAGE OFFICER
KUNHIMANGALAM VILLAGE OFFICE
KANNUR DISTRICT - 670 309.

3. THE STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
DEPARTMENT OF REVENUE
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 - TRUE COPY OF THE DOCUMENT SHOWING THE FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF WOMEN'S HOSTEL BY THE UNIVERSITY GRANTS COMMISSION DT. 27.2.07.

P1(A) - TRUE COPY OF THE DOCUMENT SHOWING THE FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF WOMEN'S HOSTEL BY THE UNIVERSITY GRANTS COMMISSION DT. 18.3.08.

P1(B) - TRUE COPY OF THE DOCUMENT SHOWING THE FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF WOMEN'S HOSTEL BY THE UNIVERSITY GRANTS COMMISSION DT. 24.2.10.

P1(C) - TRUE COPY OF THE DOCUMENT SHOWING THE FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF WOMEN'S HOSTEL BY THE UNIVERSITY GRANTS COMMISSION DT. 15.11.10.

P1(D) - TRUE COPY OF THE DOCUMENT SHOWING THE FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF WOMEN'S HOSTEL BY THE UNIVERSITY GRANTS COMMISSION DT. 19.11.10.

P1(E) - TRUE COPY OF THE DOCUMENT SHOWING THE FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF WOMEN'S HOSTEL BY THE UNIVERSITY GRANTS COMMISSION DT. 05.9.12.

P1(F) - TRUE COPY OF THE DOCUMENT SHOWING THE FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF WOMEN'S HOSTEL BY THE UNIVERSITY GRANTS COMMISSION DT. 29.8.12.

P2 - TRUE COPY OF THE PLAN SUBMITTED FOR THE CONSTRUCTION OF A WOMEN'S HOSTEL IN THE PAYYANNUR COLLEGE.

P2(A) - TRUE COPY OF THE SITE PLAN SUBMITTED FOR THE CONSTRUCTION OF A WOMEN'S HOSTEL IN THE PAYYANNUR COLLEGE.

P2 (B) - TRUE COPY OF THE PLAN IN RESPECT OF GROUND FLOOR SUBMITTED FOR THE CONSTRUCTION OF A WOMEN'S HOSTEL IN THE PAYYANNUR COLLEGE.

P3 - TRUE COPY OF THE ORDER OR ASSESSMENT UNDER THE KERALA BUILDING TAX ACT.

P4 - TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DT. 12.9.14 BEFORE THE 1ST RESPONDENT.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2480 of 2015

.....
Dated this the 23rd day of January, 2015

J U D G M E N T

The petitioner Society, which had put up a building for use as a women's hostel attached to the college administered by it, is aggrieved by Ext.P3 assessment order under the Kerala Building Tax Act whereby, the building has been assessed to building tax. It is the case of the petitioner that, in as much as the building in question is used as a hostel, and therefore, for educational purposes, it is entitled for exemption from building tax in terms of Section 3(1) (b) of the Kerala Building Tax Act. The petitioner also places reliance on the Full Bench Decision of this Court in **Unity Hospital (P) Ltd. v. State of Kerala [2011 (1) KLT 236 (FB)]** to substantiate his contention with regard to exemption. The challenge in this writ petition, against Ext.P3 order, is that the said order does not contain any reference to the petitioner's claim for exemption, and further, that the said order was passed without making a reference to the State Government on the issue of exemption.

2. I have heard Sri.M.Sasindran, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned

Government Pleader for respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the case of the petitioner for an exemption from building tax, in respect of the building put up by him, is premised on the decision of the Full Bench of this Court in **Unity Hospital (P) Ltd. v. State of Kerala [2011 (1) KLT 236 (FB)]**. The factual aspect as to whether the building in question conforms to the description of a women's hostel, and one that is used for educational purposes, is one that has to be considered by the Government while dealing with the claim for exemption. The petitioner is stated to have filed Ext.P4 representation before the 1st respondent. I, therefore, direct the 1st respondent to forward the said representation to the 3rd respondent for a decision on the issue of exemption. The 3rd respondent shall consider and pass orders on the said representation of the petitioner, within a period of three months from the date of receipt of a copy of the judgment, after hearing the petitioner. The recovery steps, if any, initiated against the petitioner, pursuant to Ext.P3 order of assessment, shall be kept in abeyance till such time as the 3rd respondent passes orders as directed and communicated the same to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

