HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

<u>WRIT PETITION No. 9068 of 2008</u>

Dt:17.11.2015

Between:

Keshava Smruthi Mandali.

… Petitioner

And

Kurnool Municipal Corporation.

… Respondent

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No. 9068 of 2008

ORDER: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the petitioner. None appears for the respondent though served.

The petitioner-High School, in the instant writ petition, make the following prayer:

> "For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue any writ or order or direction more particularly in the nature of writ of mandamus declaring the impugned action and demand notice No.10160000475905 dated 12.11.2007 demanding property tax, arrears and penalty etc., from the petitioner educational institution situated at premises No.46/517-6, Bhudavarpet, Kurnool is arbitrary, illegal and without jurisdiction with a further direction to the respondent by restraining it from demanding property tax from the petitioner in view of its entitlement for exemption under Section 202 (1) (bb) of the Hyderabad Municipal Corporation Act, 1955 read with the resolution of respondent Corporation No.605, dated 18.03.2002 unanimously granting exemption from payment of property tax to the petitioner and pass such other or orders as this Hon'ble Court deems fit and proper in the interest of justice."

The petitioner-School claim that they are exempted from payment of property tax under Section 202 (1) (bb) of Hyderabad Municipal Corporation Act, 1955. The petitioner, on receipt of impugned demand notice, dated 12.11.2007, had made a representation, dated 13.02.2008 (Annexure P-2) to the Commissioner, Kurnool Municipal Corporation seeking exemption. The petitioner contend that keeping their representation, claiming exemption, pending, the respondent made an attempt to take coercive action against the School, and therefore, they filed the instant writ petition on 02.04.2008.

On 24.04.2008, while issuing Rule, this Court granted interim stay as prayed. The stay is operating till today. Keeping that in view and considering that it would not be possible for this Court to go into factual aspect and to find out whether the petitioner-School is exempted from payment of property tax, which fact has been seriously disputed by the respondent, we deem it appropriate to dispose of this writ petition by the order, to which learned counsel for the parties have not opposed. Hence, we dispose of this petition by the following order:

"The Commissioner, Kurnool Municipal Corporation shall consider and decide the petitioner's representation, dated 13.02.2008, on merits in accordance with law, as expeditiously as possible and preferably within a period of 12 weeks from the date of receipt of this order. The petitioner-School is directed to communicate this order to the Commissioner within a period of 10 days from today. Till the representation, dated 13.02.2008, is decided by the Commissioner, the interim order passed by this Court on 24.04.2008, shall remain operative. It is made clear that this Court has not examined claim of the petitioner that they are exempted from payment of tax."

Consequently, miscellaneous petitions, if any, also stand disposed of. There shall be no order as to costs.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Dt:17.11.2015

kdl