IN THE HIGH COURT OF JUDICATURE, AT HYDERABAD

FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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W.P.No.20566 OF 2002

Between:

Col.H.M.Kulshrestha (Retd.)

….Petitioner

A n d

Union of India,

Rep. by its Secretary, Defence Department,

New Delhi

and two others

….Respondents

DATE OF JUDGMENT PRONOUNCED: 30.07.2015

SUBMITTED FOR APPROVAL:

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

1. Whether Reporters of Local newspapers Yes/No

may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No

marked to Law Reporters/Journals?

3. Whether their Ladyship/Lordship wish to Yes/No

see the fair copy of the Judgment?

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.20566 OF 2002

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

This writ petition, under Article 226 of the Constitution of India, impugns the notice of demand issued under Section 91 of the Cantonments Act, 1924 (for short "the Act"), whereby petitioner was directed to pay a sum of Rs.30,800/- towards property tax leviable under the Act within 30 days from service of the notice.

It appears from the letter dated 23.09.2000, annexed to the writ petition, the notice of demand was served on the petitioner on 08.08.2000. The petitioner has challenged this notice contending that he being an ex-serviceman is exempted from paying property tax situated in the cantonment area. In support of this contention, he placed reliance upon G.O.Ms.No.88 M.A dated 16.03.1997 and also the letter issued by the Under Secretary to the Government of India. G.O.Ms.No.88 was issued by the State Government on 16.03.1997 relating to exemption from payment of property tax to ex-servicemen. This GO, however, in our opinion, would not apply to the properties within cantonment area and covered by the Act.

The relevant portion of the letter dated 01.06.1987 issued by the Government of

India, Ministry of Defence addressed to the General Secretary, Indian Ex-servicemen Services League on which heavy reliance is placed by the learned counsel for the petitioner, reads thus:-

> "I am directed to refer to your letter No.285/87 dated March 1987 addressed to this Ministry and to say that
> Ex-Servicemen/Servicemen are now exempted from payment of house tax levied by local bodies. Section 3 of the Municipal Taxation Act, 1832 (Central Act No.11 of 1931) provides for exemption from payment of taxes of the following kind an act the property taxes:-
>
> 1) Municipal or Cantonment taxes, Trade & Selling Officer on appointment.
>
> 2. Municipal or Cantonment Taxes on salaries.
>
> 3) Municipal or cantonment taxes on animal or vehicles in respect of:-
>
> a) Any animal which such person is required by the regulations of the service of which he belongs to keep.
>
> b) Any vehicle such person is permitted to keep in lieu of an animal which the said regulations would like him to keep.
>
> Yours faithfully,
>
> Sd/- xxxxxxxx
>
> (Under Secretary to Govt.of India.)"

Respondents have not filed counter affidavit nor their Advocate was present in the Court when the writ petition was heard. In view thereof, we have heard learned counsel for the petitioner and with his assistance gone through the materials placed on record, in particular the letter dated 01.06.1987 issued by the Under Secretary to the Government of India. From the contents of this letter, it appears that the General Secretary of Indian Ex-services League was informed by the Government of India, Ministry of Defence that ex-servicemen/servicemen are exempted from payment of house tax levied by the local bodies.

It states that Section 3 of the Municipal Taxation Act, 1832 (Central Act No.11 of 1931) provides for exemption of municipal or cantonment tax. Since we are handicapped to have any assistance of learned counsel for the respondents, we have no option but to allow this writ petition in view of the letter dated 01.06.1987 issued by the Government of India, Ministry of Defence.

Rule is accordingly made absolute. No order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date: 30.07.2015

Stp/Lrkm