HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition No.20370 of 2015

DATED:07.07.2015

Between:
M/s. Gayatri Industries,
Bhainsa,
Adilabad.

… Petitioner

And

Bhainsa Municipality,
Bhainsa,
Adilabad District.

….Respondent

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition No.20370 of 2015

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

Heard learned counsel for the parties.

This writ petition is directed against notice dated 1.6.2015 and the demand notice dated 22.5.2015, issued by the Commissioner, Bhainsa Municipality, demanding property tax, vacant land tax and surcharge on property tax.

Before issuing the impugned notices, notices dated 12.9.2014 and 9.8.2014, were issued to the petitioner, stating that if the petitioner desires to make a representation, he should make it within 30/60 days. The notices were in respect of imposition of property tax/surcharge. Petitioner, admittedly, made a representation within 60 days. Despite this, the impugned notices were issued stating that their representation was not considered since it was not submitted within 30 days. This, in our opinion, is an error committed by the Commissioner, Bhainsa Municipality. In the original notice, 30/60 days time was granted to make a representation, and thereafter, the Commissioner ought to have looked into the representation made by the petitioner within 60 days and decided the notices dated 12.9.2014 and 9.8.2014, in accordance with law. When we so expressed, learned counsel for the respondent-Municipality, in all fairness, submitted that the Commissioner shall withdraw both the notices, i.e., notices dated 1.6.2015 and 22.5.2015, and shall pass fresh orders after considering the representation made by the petitioner and granting them an opportunity of being heard.

In view of the submission made by the learned counsel for respondent, we dispose of the writ petition by the following order:

“The impugned notices dated 1.6.2015 and 22.5.2015, are set aside. The Commissioner shall decide the issue of property tax/surcharge, afresh, after considering the representation made by the petitioner and granting them an opportunity of being heard. All contentions of the parties are kept open.”

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

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

7th July, 2015

Pnb