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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.142 OF 2015

Savitribai Phule Shikshan Prasarak Mandal … Petitioner
Versus
Solapur Municipal Corporation and Ors. … Respondents

Mr. V.P. Sawant i/by Mr. Nitin S. Dhumal for the Petitioner.
Dr. Ramdas Sabban i/by Mr. D.G. Dhanure for the Respondent Nos.1 to 3.
Mrs. M.P. Thakur, AGP for the Respondent No.4.

CORAM : A.S. OKA &
C.V. BHADANG, JJ.

DATE : 9th FEBRUARY, 2016

P.C.

1 Heard the learned counsel appearing for the Petitioner and the learned counsel appearing for the first and third Respondents.

2 The question raised by the Petitioner which is a Trust registered under the Bombay Public Trust Act, 1950 in this Petition is whether it is entitled to exemption from payment of General Tax as provided in Section 132 of the Maharashtra Municipal Corporations Act, 1949 (for short “the said Act”). The case made out in the Petition is that considering the user of the building, the case of the Petitioner is covered by clause (b) of Sub-Section (1) of Section 132 of the said Act. The

Petitioner Trust has also claimed exemption under Sections 148A and 148C the said Act of 1949. Both the Sections provided that all the buildings and lands exempted from the General Tax under Section 132 shall be exempted from payment of levy of Education Cess under Section 148A and levy of Street Tax under Section 148C.

3 The learned counsel appearing for the Petitioner pointed out that the Petitioner is claiming exemption under the aforesaid provisions from the financial year 2011-2012 onwards. After the matter was adjourned on 4th February, 2016, the Solapur Municipal Corporation issued notice to the Petitioner calling upon the Petitioner to remain present for the purposes of hearing on the issue of grant of exemption. The Petitioner was called upon to produce the documents and remain present for hearing on 5th February, 2016. The submission of the learned counsel appearing for the Petitioner is that a very short time was granted to the Petitioner and, therefore, it appears that the case of the Petitioner for grant of exemption will be hurriedly disposed of.

4 The learned counsel appearing for the Municipal Corporation states that in fact the Petitioner has applied for adjournment on 4th February, 2016. He stated that the case of Petitioner will be considered by the Municipal Commissioner as the Petitioner has

been already called upon to submit documents and to remain present for hearing.

5 We have perused the annexures to the Petition. After service of several bills for the year 2011-2012, the Petitioner addressed a letter dated 5th October, 2013 to the third Respondent merely stating that the rateable value fixed is excessive. The third Respondent was called upon to reduce the rateable value and to make a fresh assessment of Education Cess. In the said letter, the Petitioner did not claim any exemption. It appears that special assessment notices were issued by the first Respondent – Municipal Corporation for the year 2012-2013. By letter dated 19th October, 2012 the Petitioner filed complaint/ objections claiming exemption under Section 132 as well as Sections 148A and 148C of the said Act of 1949. There is a correspondence between the Petitioner and the first Respondent on the aspect of grant of exemption. By a communication dated 15th December, 2014, the third Respondent rejected the case of the Petitioner for grant of exemption. Thereafter, a detailed representation was made by the Petitioner on 19th December, 2014.

6 Now, that the Municipal Commissioner has offered to give hearing to the Petitioner, it is not necessary to go into the question

whether the Petitioner is entitled to exemption. As the Municipal Commissioner has offered to hear the Petitioner, the Municipal Commissioner will have to consider the case of the Petitioner for grant of exemption for the years 2012-2013 to 2015-2016. We propose to grant reasonable time to the Petitioner to produce necessary documents. It will be open for the Municipal Corporation to take inspection of the building or buildings and to take inspection of the records of the Petitioner.

7 It is obvious that if the Municipal Commissioner finds that a case for exemption is made out for the aforesaid years or for any of the years, the demand made will have to be withdrawn accordingly. The amount which is already paid by the Petitioner can be always adjusted towards the liability of the Petitioner for the subsequent period.

8 Accordingly, we dispose of this Petition by passing the following order :-

ORDER

(i) We direct the Petitioner to produce all the relevant documents in support of this claim for grant of exemption under clause (b) of Sub-Section (1) of Section 132 as well as Sections 148A and 148C of the

Maharashtra Municipal Corporations Act, 1949 within a period of one month from today. We also direct the Petitioner to produce the documents as demanded by the Municipal Corporation under the notices dated 4th February as well as 5th February, 2016 within a period of one month from today;

(ii) It will be open for the Municipal Corporation to seek inspection of the building or buildings of the Petitioner and to seek inspection of the record of the Petitioner;

(iii) After considering the documents produced by the Petitioner and after perusing the record, the Municipal Commissioner shall pass order dealing with the claim of the Petitioner for grant of exemption for the years 2012-2013 to 2015-2016. Appropriate order shall be passed by the Commissioner within a period of three months from today;

(iv) Needless to add that if the Commissioner finds that the Petitioner is entitled to exemption for the aforesaid years or for any of the aforesaid year, corresponding demands made shall be withdrawn. It will be always open for the Municipal Corporation to adjust the amounts already paid by the Petitioner towards the discharge of liability of the Petitioner arising during subsequent years;

(v) We make it clear that all contentions of the parties on the claim for exemption are expressly kept open;

(vi) We direct the Municipal Corporation not to initiate any proceedings for recovery of any amount for the aforesaid years from the Petitioner for which exemption has been claimed by the Petitioner. However, it will be open for the Municipal Corporation to recover the amounts for which exemption has not been claimed. This protection will continue till the communication of the order passed by the Municipal Commissioner to the Petitioner and for a period of three weeks thereafter;

(vii) The Petition is disposed of on above terms.

(C.V. BHADANG, J) **(A.S. OKA, J)**