IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4860/2015

M/s. Chinteshwar Steel Pvt. Ltd., Ungaon, Nagpur Tq. Nagpur, District Nagpur through its Director
...Versus...
The Dy. Chief Executive Officer (Panchayat), Zilla Parishad, Nagpur, Tq. and Distt. Nagpur and others

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Shri U.K. Bisen, Advocate for petitioner
Shri A.S. Kesari, Advocate for respondent nos.1 and 2
Shri A.D. Dangore, Advocate for respondent no.3
Shri P.S. Tembhare, AGP for respondent no.4

CORAM : SMT. VASANTI A NAIK AND KUM. INDIRA JAIN, JJ.
DATE : 29.09.2016

By this writ petition, the petitioner seeks a direction against the respondent no.1 – Chief Executive Officer, Zilla Parishad, Nagpur to refer the application – representation of the petitioner under Rule 9 read with Rule 10 of the Maharashtra Village Panchayats (Payment of Lump Sum Contribution By Factories in Lieu of Taxes) Rules, 1961 to the State Government.

The petitioner – company has established its factory unit at village Ungaon. According to the petitioner, the petitioner had regularly paid the taxes of the Gram Panchayat till the year 2007-08. It is stated that after 2007-08, the Gram Panchayat increased the taxes manifold and the petitioner challenged the said decision before the appropriate authority. According to the petitioner, though the petitioner had made an application in the year 2010 to the Gram Panchayat under Rule 3 of the Rules of 1961 for entering into an agreement for payment of lump sum contribution in lieu of taxes, the Gram Panchayat has not entered into an agreement with the petitioner. It is stated that in view of the provisions of Section 125 of the Maharashtra Village Panchayats Act, 1958 read with Rules 9 and 10 of the Rules of 1961, it would be necessary for the Chief Executive Officer of the Zilla Parishad to refer the matter to the State Government for a decision. It is stated that the provisions of Rule 9 of the Rules of 1961 have not been complied with by the Zilla Parishad and hence, a direction to the Zilla Parishad to refer the matter of the petitioner under the Rules of 1961 to the State Government would be necessary.

Shri Tembhare, the learned Assistant Government Pleader appearing on behalf of the respondent no.4, Shri Kesari, the learned Counsel appearing on behalf of the respondent nos.1 and 2 and Shri Dangore, the learned Counsel appearing on behalf of the respondent no.3 have strongly opposed the prayer made by the petitioner. It is stated that the application has not been filed by the petitioner in compliance with the provisions of Rule 3 of the Rules of 1961. It is stated that the petitioner – company is a defaulter in payment of taxes and the petitioner is liable to pay a sum of rupees twenty four lac and odd to the Gram Panchayat towards the taxes. It is stated that the taxes are not paid by the petitioner since the year 2007-08 and as per the provisions of Rule 3, an occupier of a factory desirous of arriving at a settlement is entitled to make an application only if he has paid the taxes levied by the panchayat during the three preceding years. It is stated that though the petitioner had made the application in the year 2010, the petitioner had not paid the taxes for the three preceding financial years. It is stated that an application under Rule 3 of the Rules of 1961 requires the furnishing of the details that are mentioned in clauses (a) to (d) of Rule 3, but the petitioner has not supplied the details and the application made by the petitioner cannot be said to have been made under the provisions of Rule 3 of the rules of 1961. It is stated that since the provisions of Rule 3 were not complied with by the petitioner while making the application, the Gram Panchayat was not bound to consider the application of the petitioner. It is stated that in the circumstances of the case, the dispute in regard to the failure on the part of the Gram Panchayat to enter into an agreement cannot be referred to the State Government under Rule 9 of the Rules of 1961, in the circumstances of the case.

On hearing the learned Counsel for the parties and on a perusal of the applications filed by the petitioner in the year 2010 and thereafter, it appears that the applications are not filed in consonance with the provisions of Rule 3 of the Rules of 1961. It would be necessary for an occupier of a factory desirous of arriving at an agreement under Section 125 of the Act and the Rules of 1961 to make the application stating the necessary details that are mentioned in clause (a) to (d) of Rule 3 of the Rules of 1961. On a perusal of the application made in the year 2010, which according to the petitioner, was made under Rule 3, it appears that the application was not made in consonance with the provisions of Rule 3 of the Rules of 1961. There is no mention in the application that the amounts are paid by the petitioner as an occupier of a factory in respect of each of the taxes levied by the panchayat during the three financial years immediately preceding the year in which the application was made. The application also does not mention the amount payable by the petitioner to the panchayat during the financial year in which the application is made, by indicating the amounts payable in respect of each of the taxes separately. The details of the amenities provided by the petitioner in the factory and which the panchayat provides within the limits of its jurisdiction are also not mentioned in the application. So also, the petitioner has not mentioned the expenditure incurred by the petitioner on each of the amenities provided by it up to the date of filing of the application. There is no mention in the application that the petitioner proposes to pay a particular amount in lump sum in lieu of all other taxes levied by the panchayat.

Since the application made by the petitioner was not in consonance with the provisions of Rule 3 of the Rules of 1961, the Gram Panchayat had passed a Resolution that the application cannot be entertained. The Gram Panchayat had passed a Resolution mentioning therein that the application was made belatedly and the same was also not in consonance with the provisions of Rule 3 of the Rules of 1961. The decision of the panchayat that the application could not be entertained at all is not challenged by the petitioner in any proceedings. We find that the petitioner is a defaulter and has not paid the taxes and dues of the panchayat from the year 2007-08. Since the application filed by the petitioner was not in conformity with the provisions of Rule 3, neither the Zilla Parishad nor the Gram Panchayat were duty bound to consider the same and act in accordance with the other provisions of Rules of 1961. Since the application filed by the petitioner does not appear to be made under the provisions of Rule 3 of the Rules of 1961, we do not find any error in the decision of the Gram Panchayat in not entertaining the same and the decision of the Zilla Parishad in not referring the dispute in regard to the failure on the part of the Gram Panchayat to enter into an agreement to the State Government under Rule 9 of the Rules of 1961.

As the relief sought by the petitioner cannot be granted, in the circumstances of the case, we dismiss the writ petition with no order as to costs.

JUDGE **JUDGE**

Wadkar

<u>C E R T I F I C A T E</u>

I certify that this order uploaded is a true and correct copy of original signed order.

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