

In the High Court of Judicature at Madras

Dated : 02.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.10779 to 10781 of 2016 &
WMP.Nos.9431 to 9433 of 2016

M/s.The Children's Garden School
Society Madras, rep.by Honourary
Secretary Mrs.Sakunthala Sharma

...Petitioner in
all the WPs

Vs

1.The Commissioner, Corporation of
Chennai, Zone No.9, Ward No.119,
Ripon Building, Chennai.

2.Chennai Metropolitan Water Supply
& Sewerage Board, rep.by its
Managing Director, Chennai-2.

3.The Senior Accounts Officer, Chennai
Metropolitan Water Supply & Sewerage
Board, New Area 09 Office, No.1,
Dr.Ranga Road, Abhiramapuram,
Chennai-18.

...Respondents in
all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari (i) to call for the records on the file of the second respondent in C.M.C.No.109/119/09061/000 being the arrears of tax and surcharges dated 19.1.2016 intimating the arrear of water tax of Rs.5,51,046/- and surcharge of Rs.5,740/- relating to Nos.11 & 12 (11&12), Dr.Radhakrishnan Salai Chennai-4 and quash the said notice as illegal and against the provisions of Section 34 of the CMWSSB Act (WP.No.10779 of 2016); (ii) to call for the records on the file of the second respondent in C.M.C.No.4112/09/119/09064/000 being the arrears of tax dated 29.12.2015 intimating the arrears of water tax of Rs.2,67,132/- relating to No.11(6), Dr.Radhakrishnan Salai, Mylapore, Chennai-4 and quash the said notice as illegal and against the provisions of Section 34 of the CMWSSB Act (WP.No.10780 of 2016) and (iii) to call for the records on the file of the second respondent in C.M.C.No.1/09/119/09062/000 being the arrears of tax and surcharges dated 19.1.2016 intimating the arrear of water tax of Rs.1,10,952/- and surcharge of Rs.1,155/- relating

to No.3(2), Dr.Radhakrishnan Salai, Chennai-4 and quash the said notice as illegal and against the provisions of Section 34 of the CMWSSB Act (WP.No.10781 of 2016).

For Petitioner : Mr.R.Sivaraman All WPs
For Respondent-1 : Mr.T.C.Gopalakrishnan
For Respondents 2 & 3 : Mr.N.Jothikumar All WPs

COMMON ORDER

Heard both. By consent, the writ petitions are taken up for final disposal.

2. The petitioner is an educational institution and they are aggrieved by the impugned notices demanding water and sewerage tax with retrospective effect from the first half year of 2013 till the second half year of 2015.

3. The petitioner would state that the Corporation of Chennai, while fixing the annual value of the building, has not afforded an opportunity to the petitioner and the fixation itself is erroneous and that the petitioner proposes to challenge the said fixation. So far as the amounts demanded are concerned, the learned counsel for the petitioner submits that no order of assessment is passed till date as required to be done under Section 34 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978 and that no demand could have been issued without an order of assessment.

4. However, the learned counsel for respondents 2 and 3 submits that in similar cases, this Court directed the aggrieved party to approach the Tribunal, which has been constituted under the provisions of the said Act for dealing with such disputes and all those cases are being heard by the Tribunal. The Tribunal, having been established under the Statute, provides an effective alternate remedy and the petitioner should not be permitted to bypass that remedy unless there are sufficient and cogent reasons for doing so.

5. However, in the instant case, the only ground raised by the petitioner is that there was no order of assessment passed prior to the impugned demands.

6. The impugned demands state that as per Section 34 of the said Act, the annual water and sewerage tax has been determined. In any event, since the petitioner has an effective alternate remedy, it is but appropriate for the petitioner to approach the said Tribunal and agitate all the issues.

7. Accordingly, the writ petitions are disposed of giving liberty to the petitioner to file an appeal before the Tribunal constituted under the said Act and the petitioner is entitled to raise all the issues before the Tribunal. The petitioner is granted 60 days' time from the date of receipt of a copy of this order to file an appeal before the said Tribunal and till then, the water and sewerage connection to the petitioner institution shall not be disconnected. No costs. Consequently, the above WMPs are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Commissioner, Corporation of Chennai,
Zone No.9, Ward No.119,
Ripon Building, Chennai.
- 2.The Managing Director,
Chennai Metropolitan Water Supply & Sewerage
Board, Chennai-2.
- 3.The Senior Accounts Officer,
Chennai Metropolitan Water Supply &
Sewerage Board, New Area 09 Office,
No.1, Dr.Ranga Road,
Abhiramapuram, Chennai-18.

+1 cc to Mr.R.Sivaraman Advocate sr.29974

+2 cc to Mr.T.C.Gopalakrishnan Advocate sr.29410

सत्यमेव जयते

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&WMP.Nos.9431 to 9433 of 2016

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