

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.15431 of 2016 &

WMP No.13456 of 2016

The Hindu Theological Higher Secondary School Rep. by its Honorary Secretary & Correspondent Sowcarpet, Chennai-79 [PETITIONER]

Vs

- 1 Chennai Metropolitan Water Supply & Sewerage Board rep. by its Managing Director No.1 Pumping Station Road, Chindathripet, Chennai-600 002.
- 2 The Managing Director Chennai Metropolitan Water Supply & Sewerage Board No.1 Pumping Station Road Chindathripet, Chennai-600 002.
- 3 The Senior Accounts Officer Chennai Metropolitan Water Supply & Sewerage Board, New Area 05 Office No.1 M.C.Road, Washermenpet Chennai-600 021.
- 4 The Spl. Thasildar Revenue Officer, Area 05, Chennai Metropolitan Water Supply & Sewerage Board No.1 M.C.Road, Washermenpet, Chennai-600 021.

[RESPONDENTS]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorari to call for the records pertaining to the Demand Notice dated 15.12.2015 in No.05/057/11104/000 and the consequential Disconnection Notice No.327 dated 07.01.2016 in No.05/057/11104/000 in respect of the Hindu Theological Higher Secondary School No.107, Audiappan (Naicken) Street, Sowcarpet, Chennai-600 079, the Petitioner school herein on the file of the 3rd and 4th respondents respectively and quash the same.

For Petitioner : Mr.N.Baaskaran

For Respondents : Mr.M.Jothikumar - R1 to R3

Mr.R.Rajeswaran -R4
Special Government Pleader

O R D E R

Heard Mr.N.Baaskaran, learned counsel appearing for the petitioner, Mr.M.Jothikumar, learned counsel accepting notice for the respondents 1 to 3 and Mr.R.Rajeswaran, learned Special Government Pleader accepting notice for the fourth respondent and with the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The petitioner is an Aided Educational Institution running a School and is aggrieved by the action of the Chennai Metropolitan Water Supply & Sewerage Board (CMWSSB), demanding water and sewerage tax at the enhanced rate with retrospective effect from 2013 onwards. The petitioner would state that the impugned demand is wholly arbitrary, unreasonable and exorbitant.

3.It is seen that the building in question was re-assessed for its annual value and the new assessment has been made by the Corporation of Chennai vide proceedings dated 31.10.2015, wherein the annual value has been fixed at Rs.6,19,267/- and the half yearly tax after discount has been arrived at Rs.76,790/-.

4.As long as the petitioner has not questioned the said fixation of annual value/half yearly tax, they cannot challenge the proceedings of the CMWSSB, since the demand is on account of the revision of the annual value by the Corporation of Chennai. Though the half yearly tax has been fixed, the petitioner being an Educational Institution, has been exempted from the levy of property tax and the assessment is only for collecting water and sewerage tax by CMWSSB. Therefore, if the petitioner wants to

contest the assessment of water and sewerage tax, necessarily they have to question the annual value of the building as fixed by the Corporation. However, it appears to have been not done by the petitioner presumably on the ground that no property tax is levied on them. However, without challenging the annual value fixed by the Corporation of Chennai, the petitioner cannot question the impugned demand issued by CMWSSB.

5.Considering the fact that the petitioner is an Educational Institution and if water and sewerage are cut off, children will be put to prejudice, this Court is inclined to pass the following order:

"The petitioner is granted eight weeks time to challenge the fixation of annual value as fixed by the Corporation of Chennai proceedings dated 31.10.2015, by approaching the appropriate forum within four weeks from the date of receipt of this order. It is open to the petitioner to seek for appropriate interim orders from the Appellate Authority and till Appellate Authority considers the petitioner's objection to the fixation of annual value, the impugned demand by the CMWSSB shall be kept in abeyance. However, the petitioner Institution shall continue to pay water and sewerage tax at the pre-revised rate. "

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

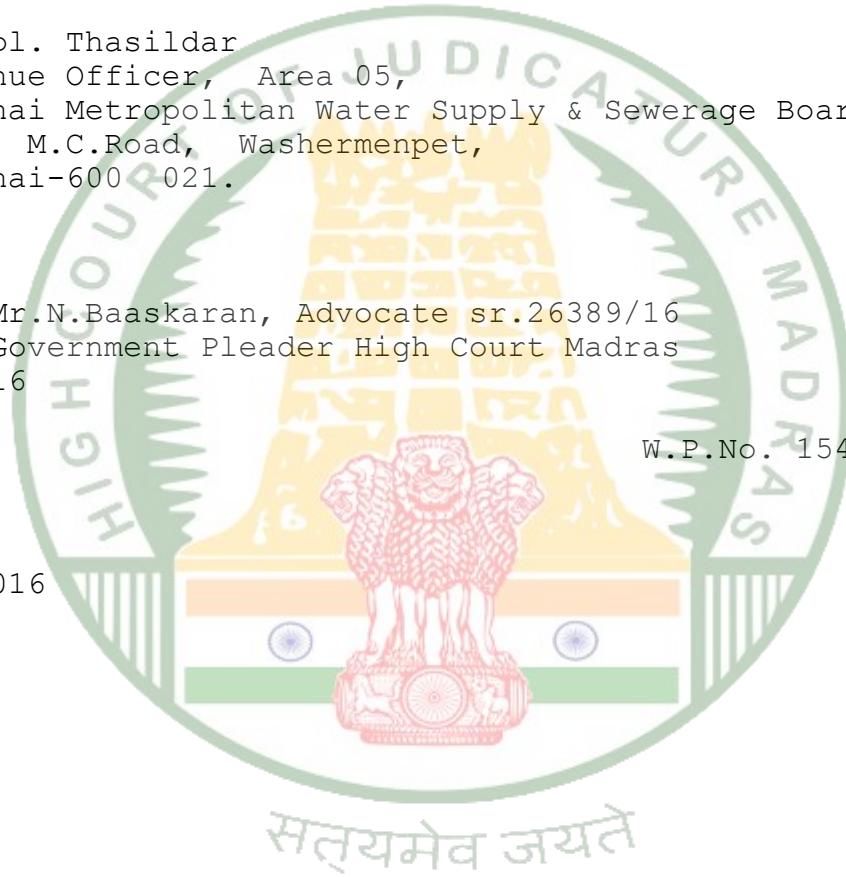
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Chennai-600 021.

+1 cc to Mr.N.Baaskaran, Advocate sr.26389/16
+1 cc to Government Pleader High Court Madras
sr 26327/16

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