IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.18603 of 2016 &
W.M.P.N.16299 of 2016

Jayalakshmi Institute of Technology,
Rep. by its Chairman,
Avarangadu,
Thoppur Post,
Dharmapuri Taluk & District - 636 352. .. Petitioner

Versus

1.The Government of Tamil Nadu,
Represented by its Secretary,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai-600 009.

2.Thoppur Village Panchayat,
Rep. by its President,
Thoppur Panchayat,
Nallampalli Union,
Dharmapuri District-636 352. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the respondents relating to the Demand raised by the second respondent vide Order dated 01.09.2015 and quash the same in so far as it relates to collection of Surcharge and forbearing the respondents from levying Surcharge as contemplated in Explanation-II under Schedule-1 to Tamil Nadu Panchayats Act, 1994 for the buildings of the petitioner educational Institution.

For Petitioner : Mr.Kandhan Duraisami

For Respondents : Mr.A.Zakkir Hussian
Government Advocate for R1

Mr.D.Suriya Narayanan for R2

O R D E R

Heard Mr.Kandhan Duraisami, learned counsel appearing for the petitioner; Mr.Mr.A.Zakkir Hussian, learned Government Advocate appearing for the first respondent and Mr.D.Suriya Narayanan, learned counsel appearing for the second respondent.

2. In this Writ Petition, the petitioner seeks for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the second respondent, which is the demand, calling upon the petitioner to pay Surcharge.

3. The learned counsel on either side agreed that the issue involved in this Writ Petition is covered by the decision rendered in a batch of cases in W.P.No.8160 of 2016, dated 20.06.2016 (The Cauvery Educational Trust Vs. The Government of Tamil Nadu), wherein, while deciding the correctness of a similar order, as impugned in the Writ Petition, this Court has passed the following order:-

> "6. In the light of the above, the petitioners-institutions shall continue to pay the property tax in terms of the interim order granted by the Division Bench of this Court in W.A.No.2152 of 2010, etc. batch, dated 17.03.2011 and also pay the library cess which is levied at 1% of the property tax upto date. So far as the surcharge is concerned, it appears that the petitioners have effected part-payments. Therefore, whatever payments which have been made towards surcharge, need not be refunded at this juncture, nor it is required to be adjusted as of now. The respondent-Panchayats shall not levy any surcharge and they shall await the decision of the Hon'ble Division Bench of this Court or the Hon'ble Supreme Court whichever is earlier, where the larger issue as to whether the petitioner-institutions are entitled for the benefit of exemption, is pending consideration.
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> 7. The learned counsel for the petitioners submitted that the petitioner-institutions have been regularly remitting the property tax and for instance, with regard to Kaaveri Educational Trust (petitioner in W.P.No.8160 of 2016), they have paid property tax from the assessment year 2013-2014, and the property tax has been abruptly increased from Rs.4,64,325/- to Rs.13,74,305/-.

8. In the light of the above, the petitioner-institutions are at liberty to challenge the increase of property tax by availing remedies available under the provisions of the Act and this can be done by the petitioners without prejudice to the rights in the pending Writ Petitions as well as Appeals, wherein the larger issue with regard to levy of property tax is put to challenge. In the light of the above, the respondents are directed to issue a revised demand giving break-up details. The above direction shall be complied with by the respondent-Panchayats, within a period of four weeks from the date of receipt of a copy of this order. It is needless to say that the petitioners should be granted reasonable time to comply with the revised demand of property tax. With the above direction, these Writ Petitions stand disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed."

4. Thus, following the above order, the Writ Petition is disposed of on the following terms:-

The petitioner-Institution is at liberty to challenge the increase of property tax by availing remedies available under the provisions of the Act and this can be done by the petitioner without prejudice to the rights in the pending Writ Petitions as well as Appeals, wherein the larger issue with regard to levy of property tax is put to challenge. In the light of the above, the respondents are directed to issue a revised demand giving break-up details. The above direction shall be complied with by the respondent-Panchayat, within a period of four weeks from the date of receipt of a copy of this order. It is needless to say that the petitioner should be granted reasonable time to comply with the revised demand of property tax. With the above direction, the Writ Petition stands disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai-600 009.

2.The President,
Thoppur Village Panchayat,
Thoppur Panchayat,
Nallampalli Union,
Dharmapuri District-636 352.

+1cc to Mr.D.Suriya Narayanan, Advocate sr.47271

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ev[co]
srg 09/09/2016