HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.7993 of 2016

Date: 11.03.2016

Between:

Peddapalli Nagara Rate Payers Associations,
3-5-6, Tilaknagar, Peddapalli, Karimnagar District,
Rep.by its General Secretary, Venkata Ramana Rao
Regulapaty, S/o Rajagopal Rao, Aged about 70 years,
R/o Peddapalli, Karimnagar District.

….. Petitioner

and

The State of Telangana, Municipal Administration and
Urban Development Department, Secretariat,
Hyderabad, rep.by its Principal Secretary and two others.

…..Respondents

The Court made the following:

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO

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PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

This writ petition is filed praying to grant the following relief:

"To declare the proceedings of the 2nd respondent issued in proceedings No.A1/1580/2014, dated 25.02.2015 published in Karimnagar District Gazette, (Extraordinary) No.11, dated 12.03.2015 as illegal, arbitrary and contrary to Section 81 of Andhra Pradesh Municipalities Act, 1965".

2. The Peddapally Nagar Panchayat issued public notice dated 25.01.2015 calling for objections on the issue of division of Peddapally town into five zones and the revision of property tax. The said notice was published in local newspaper on 27.01.2015. As no objections were received on the proposed enhancement of property tax, final notification dated 25.02.2015 was issued and the same was published in the Karimnagar District Gazette, Part–1, Extraordinary No.11, dated 12.03.2015.

3. Learned counsel for petitioner contends that Section 81 of the Andhra Pradesh Municipalities Act, 1965 (for short, 'Act, 1965') mandates issuance of clear one month notice for calling for objections and on consideration of such objectives, the Municipal Council has to take a decision and thereafter final notification can be issued regarding levy/enhancement of property tax, whereas in the instant case, such procedure was not followed. Even before lapse of one month from publication of notice in local newspapers, the revision was finalized. Furthermore, no meeting of the council was held before final notification was issued.

4. Section 81 of the Municipalities Act, 1965 reads as under:

Section 81: Levy of ordinary taxes and the control of Government

in respect

thereof:-

(1) (a) Every council shall, by resolution, levy the following taxes, namely:-

(i) a property tax;

(ii) x x x

(iii) a tax on carriages and carts; and

(iv) a tax on animals.

(b) The council may, by resolution and with the previous sanction of the Government also

levy a tax on advertisements.

(2) Any resolution of a council determining to levy a tax shall specify the rate at which and the date from which any such tax shall be levied;

Provided that, before passing a resolution imposing a tax for the first time or increasing the rate of an existing tax, the council shall publish a notice in at least one newspaper published in the main language of the district having circulation in the municipality, on the notice board of the municipal office and in such other places within municipal limits as may be specified, by the council and by beat of drum, of its intention, fix a reasonable period not being less than one month for submission of objections and consider the objections, if any, received within the period specified.

Provided further that any resolution abolishing an existing tax or reducing the rate at which a tax is levied shall be immediately reported to the Government; and in municipalities which have an outstanding loan either from the Government or from the public or from any banking, insurance or financial corporation or from any other local authority, such abolition or reduction shall not be carried into effect without the sanction of the Government.

5. A bare perusal of first proviso appended to sub-section (2), it is clear that the provision requires publication of notice proposing to increase the rate of existing tax and to invite objections from people living in the Nagar Panchayat. It requires publication of notice in one newspaper in the main language of the district having circulation in the municipality. It also requires display on the notice board of the municipal office and such other places within the municipal limits as may be specified by the council and by beat of drums. It shall consider the objections, if any, received within said period and Municipal council shall take a decision in finalizing the revision of existing tax.

6. The object of Section 81 of the Act, 1965, is that the Nagar

Panchayat should give wide publicity of its intendment to revise the taxes and call for objections from general public before a final decision is taken. There are four modes of publication of intention of Nagar Panchayat for revision of tax and calling for objections. The provision does not envisage that after publication in the newspaper, the council has to wait for 30 days before finalizing the revision of tax. Be that as it may, admittedly, neither the petitioner nor other persons living in the Nagar Panchayat have filed objections against the proposed revision within the time specified in the notice or soon thereafter. Admittedly, even petitioner has submitted representation for the first time on 13.10.2015, i.e., much after the publication of the final notice. Even in this representation petitioner only objects to enhancement of property tax as unreasonable and that the residents are facing lot of hardship on account of such revision. No objection raised on non-compliance of procedural formalities. The contents of the representation also disclose that after the finalization of the revision of property tax individual notices were also issued to the residents and the individuals have also filed objections.

7. It is not the case of the petitioner that other modes of notification was not issued immediately after the decision to revise the tax was taken and without waiting for completion of 30 days from such notice, final notice was issued.

8. Learned counsel for petitioner sought to contend that no council meeting was held. However, no material is placed on record to show that council meeting was not held. The objection petition filed on 13.10.2015 also does not raise such contention.

9. Power to levy various taxes in the limits of Nagar Panchayat is vested in the Nagar Panchayat. The statutory scheme envisages affording opportunity to general public to file objections on proposed revision. Such a procedure was followed. No objections were filed. In

valid exercise of power and as no objections were made, the final notification of revision of taxes was issued. No case of grave illegality or blatant violation of statutory scheme is made out. In the facts of this case, it cannot be said that the final notification is vitiated on the grounds as urged by the petitioner warranting exercise of extraordinary jurisdiction under Article 226 of the Constitution of India to nullify the revision of property tax impugned in this writ petition. Moreover, the revised property tax has already come into effect. Thus, writ petition merits no consideration. The writ petition is accordingly dismissed. No costs.

Miscellaneous petitions if any pending in the writ petition shall stand closed.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date: 11.03.2016
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HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO

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