IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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

WRIT PETITION No. 6797 of 2016

Date: 03.03.2016

Between:

St. Francis Integrated English Medium School,
Rep., by its Correspondent,
SPSR Nellore District.

… Petitioner

And

State of A.P., rep., by its Principal Secretary,
Municipal Administration & Urban Development Department,
Hyderabad & another.

… Respondents

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

WRIT PETITION No. 6797 of 2016

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ petition is filed by St. Francis Integrated English Medium School challenging final notices, all dated 26.02.2016, issued by the 2nd respondent seeking payment of property tax in respect of the school buildings without considering their objections, dated 17.03.2015.

Sri Md. Saleem, learned counsel for the 2nd respondent, at the outset, raised a preliminary objection as to maintainability of the writ petition on three grounds; (1) the petition is not filed by the society; (2) demand notice on the basis of which the impugned final notices have been issued has not been challenged in this petition by the society, and (3) that the petitioner has not placed any material on record to show that the society is a charitable institution.

Learned counsel for the petitioner submits that the petitioner school, hospitals and quarters to which the impugned notices have been issued are run by Andhra Capuchin Society. In other words, he submits that the establishments to which impugned notices have been issued are run by Andhra Capuchin Society, registered under the Andhra Pradesh Societies

Registration Act. In view thereof, we find substance in the first objection raised by the 2nd respondent.

It is not in dispute that before issuing final notices, impugned in the present writ petition, demand notice, dated 17.03.2015, was issued by the 2nd respondent to the society. The demand notice has not been challenged in the instant writ petition, though the petitioner claims that the society had filed objections to the same and the objections have not been considered. Be that as it may, the fact remains that the demand notice has not been challenged either by the society or by the petitioner in the instant writ petition. Hence, in our opinion, the second ground of objection also deserves to be allowed.

Insofar as the third objection is concerned, the society ought to have approached the concerned authority in reply to the demand notice, showing that the society is a charitable institution. Since the society has not done so, the petitioner cannot make a grievance only on the basis of the letter, dated 04.09.2006, issued by the Government of Andhra Pradesh, Municipal Administration and Urban Development (TC-I) Department.

In this backdrop, we are satisfied that the following order shall meet the ends of justice:

"(i) The society shall deposit the amount as demanded by the 2nd respondent – Municipality without prejudice to their rights and contentions, within a period of four weeks from today and file representation/revision application against the demand notice and place on record the relevant material to show that they are charitable institutions and are entitled for exemption as per letter, dated 04.09.2006, issued by Government of Andhra Pradesh.

(ii) The concerned authority shall consider the society's representation as expeditiously as possible and preferably within a period of eight weeks from the date of its presentation.

(iii) It is made clear that if the society ultimately succeeds in establishing that they are charitable institutions, the concerned authority may consider their claim of exemption in proper perspective and if it is allowed, the amount deposited by them may be refunded within a period of four weeks from the date of decision. If the society files a revision under Rule 12 of Schedule II of A.P. Municipality Act Taxation and Finance Rules within a period of four weeks from today, same may be considered and decided within four months on merits in accordance with law and without entering into the issue of limitation.

Writ petition is accordingly dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

DILIP B.BHOSALE, ACJ

P. NAVEEN RAO, J

Date: 03.03.2016
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