

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (T) No.72 of 2017**

Smt. Sadhna Bajpai W/o Late Ramakant Bajpai, Aged about
72 years, R/o Bajpai Ground, Tilaknagar, Bilaspur (CG)

---- Petitioner

Versus

1. Municipal Corporation Bilaspur Through Commissioner, Nehru Chowk, Bilaspur (CG)
2. Assistant Revenue Inspector Property Tax Department, Municipal Corporation, Nehru Chowk, Bilaspur (CG)
3. Assistant Revenue Officer, Municipal Corporation, Nehru Chowk, Bilaspur (CG)
4. Revenue Sub-Inspector Municipal Corporation, Nehru Chowk, Bilaspur (CG)

---- Respondents

For Petitioner	:	Mr.Varun Sharma and Mr.Anant Bajpai, Advocates
For Respondents	:	Mr.M.K.Bhaduri and Mr.B.L.Sahu, Advocates

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

20/06/2017

1. The petitioner has called in question the notice (Annexure P/1) by which property tax has been assessed and demand notice has been issued directing to pay a sum of ₹ 5,81,610/-.
2. Learned counsel for the petitioner would submit that the petitioner is widow lady and suffering from cancer, therefore, she is entitled to exempt from property tax under Section 136(f) of the Chhattisgarh Municipal Corporation Act, 1956 (hereinafter called as 'the Act'). He would further submit that Rule 11 of the Chhattisgarh Municipality (Determination of annual letting value of building/lands) Rules, 1997 (hereinafter called as 'the Rules') has not been followed. He would rely upon the decision of this Court passed in WA No.347 of 2014 (Bharat

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Aluminium Company Captive Plant Vs. Municipal Corporation
Korba and another), decided on 14.8.2015.

3. On the other hand, learned counsel for the respondents would submit that order is appealable, therefore, the writ petition is not maintainable.
4. I have heard learned counsel for the parties and considered their rival submissions made hereinabove.
5. A Division Bench of this Court in **Bharat Aluminium Company Captive Plant** (Supra) has held as under:-

“11. The impugned demands raised by the Municipal Corporation make it manifest that the procedure prescribed under Rule 11 has not been followed. There is no reference to any show cause notice or consideration of the cause shown why the Municipal Officer was satisfied for reassessment. It is a final order straight away raising the demand after reassessment confronting the assessee with conclusions arrived at ex parte. It purports to give a post decisional hearing after having made scrutiny and done reassessment contrary to law. The reassessments as done are therefore held to be bad and are set aside but without prejudice to the rights of the Municipal Corporation afresh in accordance with law without being prejudiced by any opinion or observation in the order of the Learned Single Judge. The impugned order dated 12.8.2014 is set aside for reasons discussed.”

6. Section 136 (f) of the Act reads as under:-

“136 (f) buildings or lands owned by widows or minors or persons subject to physical disability or mental infirmity owing to which they are incapable of earning their livelihood, where the main source of maintenance of such widows or minors or persons is the rent derived from such buildings and lands:

Provided that such exemption shall, relate only to the first twelve thousand rupees or the annual value of

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such buildings and lands.”

7. Section 136(f) of the Act provides exemption from property tax with regard to buildings or lands owned by widows or minors or persons subject to physical disability or mental infirmity owing to which they are incapable of earning their livelihood.
8. From perusal of the documents, it appears that the petitioner's case has not been considered and decided in the light of Section 136 (f) of the Act and Rule 11 of the Rules, therefore, I deem it appropriate to direct the petitioner to make a fresh representation against the said demand in the light of Section 136(f) of the Act and in the light of para 11 of the decision of this Court in **Bharat Aluminium Company Captive Power Plant** (supra) within a period of three weeks from today and in turn, the competent authority of the Municipal Corporation, Bilaspur after hearing the petitioner would decide the representation of the petitioner in accordance with law within a further period of ten weeks from the date of receipt of the representation before proceeding further to recover the demand.
9. With the aforesaid observation, the writ petition finally stands disposed of. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-