IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2017

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.1089 of 2013

and

M.P.No.1 of 2013

1. Vellalar Educational Trust,
   represented by its Secretary,
   Perundurai Road,
   Thindal,
   Erode - 638 012.

2. Vellalar College for Women (Autonomous)
   represented by its Secretary and Correspondent,
   Property Tax Assessment No.3302475
   Perundurai Road, Thindal,
   Erode - 638 012.

3. Vellalar College of Education for Women, (B.Ed.,),
   represented by its Secretary and Correspondent,
   Property Tax Assessment No.3111730
   Maruthi Nagar, Thindal,
   Erode - 638 012.

4. Vellalar Teachers Training College,
   represented by its Secretary and Correspondent,
   Property Tax Assessment No.3111729
   Maruthi Nagar, Thindal,
   Erode - 638 012.

5. Vellalar Matriculation Higher Secondary School,
   represented by its Secretary and Correspondent,
   Property Tax Assessment No.3303708
   Perundurai Road,
   Thindal, Erode - 638 012.

6. Vellalar College of Engineering & Technology,
   represented by its Secretary and Correspondent,
   Property Tax Assessment No.3303707
   Perundurai Road,
   Thindal, Erode - 638 012.

7. Vellalar College & Nursing,
represented by its Secretary and Correspondent,
Property Tax Assessment No.3111731
Perundurai Road,
Thindal, Erode - 638 012.

8. Vellalar School for Girls,
(State Board)
represented by its Secretary and Correspondent,
Property Tax Assessment No.3303709
Perundurai Road,
Thindal, Erode - 638 012. ... Petitioners

Versus

1. The Commissioner,
Erode Corporation,
Erode.

2. The Assistant Commissioner,
Zone -3, Erode Corporation,
Erode. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records of the first respondent herein in its order in Na.Ka.No.A1/2473/2012 dated 25.09.2012 and to quash the same as without jurisdiction and illegal and further direct the respondents herein not to levy property tax to the petitioner/Institutions, as the same were exempted from the payment of property tax under Section 123(c) of the Coimbatore City Municipal Corporation Act, 1981 which came to be made applicable for the respondent/Corporation under Section 8 (1) of the Erode City Municipal Corporation Act, 2008.

For Petitioners : Mr.V.P.Sengottuvel

For Respondents : Mr.M.Raja Mathivanan,
Standing Counsel

ORDER

Heard Mr.V.P.Sengottuvel, the learned counsel appearing for the petitioners and Mr. M. Raja Mathivanan, the learned Standing Counsel appearing on behalf of the respondents.

2. The petitioners are before this Court, challenging a communication sent by the respondents to them, dated 25.09.2012, in effect, rejecting their claim for exemption from levy of property tax under Section 123 (c) of the Coimbatore City Municipal Corporation Act, 1981 (hereinafter, referred to as 'the Act') which has been made applicable to the Erode City Municipal Corporation.

3. The first petitioner is an Educational Trust, and it is administering the Education Institutions, which are arrayed as petitioners 2 to 8. It is stated that the first petitioner/Trust was founded in the year 1969, by well known philanthropists at Erode and providing quality education to the students, especially, to those, who are hailing from the rural areas. The first petitioner-Trust is said to consists of 745 members from various fields, and it started a Government Aided Women's College in the year 1970, which was the only Women's College in Erode, and stands second to Bharathiyar University, Coimbatore.

4. The petitioners would state that, in terms of the provisions of Section 123 (c) of the Act, the petitioners are entitled for grant of exemption from levy of property tax. In this regard, a representation/application was made on 25.06.2012. Unfortunately, the said representation is very sketchy, bereft of particulars and without enclosing proper and requisite documents, the application has been made. Equally so, is the impugned order, which proceeded entirely on a different line, without taking note of as to what is the purpose and purport of the application made by the petitioner/Trust, vide representation, dated 25.06.2012. The observation contained in para No.3 of the impugned order is irrelevant to the request for exemption made by the first petitioner/Trust.

5. The arguments of the learned Standing Counsel for the respondent/Corporation is that, there are other Educational Institutions in Erode, which are paying the property tax. This is no reason for refusing to consider the application of the first petitioner/Trust for grant of exemption, especially, when there are statutory provisions, enabling grant of exemption. Assessee, who claims exemption is bound to establish that, they fall within the parameters, prescribed under the Act to claim for exemption. If such proof is produced, then, the Corporation should inspect the building, and verify as to the object of the first petitioner/Trust, the manner, in which, the Educational Institutions are being conducted and such other factors and then, come to a conclusion whether the plea of exemption is admissible or not. This exercise having not been done, the matter requires to be sent back to the respondent-Corporation to undertake such exercise.

6. For the above reasons, the Writ Petition is allowed, the impugned order is quashed with a direction to the first petitioner/Trust to submit a full fledged application for grant of exemption from levy of property tax. All documents relevant to support their plea to be annexed with the application for exemption. On receipt of such application, the respondent/Corporation shall authorize a Senior Officer of the Corporation to conduct inspection of the building after notice to the first petitioner/Trust. After receipt of the inspection report, the first petitioner/Trust may be furnished a copy of the Inspection Report and further time to submit additional representation/objection, after which, the first respondent/Corporation shall afford an opportunity of personal hearing to the authorized representative of the first petitioner/Trust, and pass a reasoned order on merits and in accordance with law. The first petitioner/Trust is at liberty to raise all legal and factual contentions before the first respondent/Corporation during the course of hearing.

7. The Writ Petition is allowed on the terms, as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sd/mrr

To

1. The Commissioner,
Erode Corporation, Erode.

2. The Assistant Commissioner,
Zone -3, Erode Corporation,
Erode.

+1 CC to Mr.M.Raja Mathivanan,, Advocate Sr.No.68109

+1 CC to Mr.V.P.Sengottuvel Advocate Sr.No.68793

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SSI(CO)
KP(10.10.2017)