THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.8748 OF 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking to declare the action of respondents 2 and 3 in issuing demand notice, dated 24.10.2016, to the petitioner demanding him to pay the due amount of Rs.4,46,824/- in the Account No.PTI/ASMT No.1020313854, D.No.3-9-46/NR, situated at Sharadha Nagar, Ramanthapur, Hyderabad, as arbitrary and illegal.

2. Heard learned counsel for the petitioner and learned Government Pleader for the respondents.

3. The petitioner society is running a school under the name and style of The Anne Besant School at premises No.3-9-46/NR, Sharada Nagar, Ramanthapur, Hyderabad, with an intention to serve poor children and to impart free education to them. In the affidavit filed in support of the petition, it is stated the petitioner is seeking tax exemption of the school under Section 202 (bb) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act'). It is also stated that the school is running for SC/ST children on free of cost and it is not on commercial lines. The petitioner also submitted a representation on 14.02.2013 to the 3rd respondent to consider his request for exemption of tax. But, no action has been taken till today.

4. Learned counsel for the petitioner raised a legal ground that notice under Section 268 of the Act is omitted from the statute

w.e.f. 16.07.2013 by Amending Act 15 of 2013. He also submits that in terms of Section 202 of the Act, educational institutions are exempted from the property tax. He further submits that no assessment made and no notice is issued prior to making the demand; that the school, which is run by the petitioner, is exclusively to the needs of the SC/ST children on humanitarian grounds and as such the school is exempted from the property tax.

5. Learned Standing Counsel for the Corporation would fairly submits that the notice does not indicate any exercise having been done, but, however, the information available with the Corporation is that the petitioner having obtained permission for residential house had made deviations and also made unauthorized constructions. He would also submit that the impugned notice may be set aside by giving liberty to the respondent authorities to issue fresh notice and take action in accordance with law.

6. Having considered the respective submissions and keeping in view the law laid down by the Full Bench of this Court in **Kakinada Education Society, Kakinada V. Kakinada Municipal Corporation** (W.P.No.4214 of 2006 & Batch), dated 28.12.2006, the impugned demand notice, dated 24.10.2016, is set aside, however, the petitioner has to satisfy the authorities that the school is running on charitable basis and not on profit motive. Subject to the satisfaction, the respondents may consider and exempt the petitioner's school from the property tax.

7. With the above observation, the Writ Petition is allowed setting aside the demand notice, dated 24.10.2016, and liberty is given to the respondent authorities to issue fresh notice to the petitioner and make assessment in accordance with law.

Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J

MARCH 14, 2017
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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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Date: 14.03.2017

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