THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 7705 OF 2017

O R D E R :

In this Writ Petition, in the cause title, the 2nd respondent has been arrayed as Kadapa Municipal Corporation represented by its Chairman. Learned counsel for the petitioner submits that by oversight, instead of the Commissioner, it has been mentioned as Chairman. In view of the same, it is directed that wherever reference is made in this order to the 2nd respondent, it shall be construed as Kadapa Municipal Corporation represented by its Commissioner.

This Writ Petition has been filed seeking a *mandamus* to declare the action of the 2nd respondent in issuing the distress notice dated 10.02.2017 under Section 269(2) of the Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act'), without considering the representations of the petitioner dated 14.03.2016 and 05.02.2017 with regard to the applicability of Section 202 (1)(bb) of the Act in respect of 'HUDA English Medium High School for Girls' at Door No. 13/386, Saheb Makan Street, Kadapa, as illegal and arbitrary.

The case of the petitioner is that she has been running the school in the above-said premises, purely on charitable basis. Hence, she seeks the school to be exempted under Section 202(1)(bb) of the Act from paying the property tax. However, the 2nd respondent has issued the notice dated 10.02.2017 demanding her to pay Rs.3,22,925/- as property tax, for which, the petitioner has submitted the explanation on 14.03.2016 and on 05.02.2017, but the same have not been considered so far.

Heard learned counsel for the petitioner.

Sri S.D. Goud, learned Standing Counsel for the 2nd respondent Municipal Corporation disputes any explanation having been submitted by the petitioner. He, however, contends that the petitioner may be directed to submit a fresh explanation, which, according to him, will be considered by the 2nd respondent, in accordance with law.

The subject matter of the Writ Petition is no longer *res integra,* inasmuch as a Full Bench of this Court in Writ Petition No. 4214 of 2006 and batch, *vide* order dated 28.12.2006 had considered the issue 'as to whether private schools/educational institutions would automatically be entitled for property tax exemption or any enquiry is to be conducted with respect to the fact that such institutions are rendering service on charitable basis'. In that context, the Full Bench had opined that the respective institutions claiming exemption shall approach the Commissioner and satisfy the authorities that their institution is being run on charitable basis and hence, is entitled to exemption under Section 202(1)(bb) of the Act. The Full Bench has further held as under:

> " Therefore, with the consent of the learned counsel for the parties, we dispose of the writ petitions as well with an observation that before levying of the tax on the petitioners' institutions, the authorities concerned should address to the question as to whether the institutions are charitable institutions or not and for such purpose the petitioners are at liberty to make representations to the concerned authorities within one month and after considering such representations, the authorities may pass appropriate orders since at no point of time the authorities have considered whether the petitioners' institutions are charitable institutions or not. Therefore, we are passing such orders to enable the authorities to pass fresh orders after considering the submissions of the petitioners. We are also quashing the impugned notices. The respondents shall be at

> liberty to raise fresh claims, if any, after hearing the petitioners and deciding their claim that they are charitable institutions."

In that view of the matter and in view of the assertion of the learned counsel for the petitioner that the petitioner has already submitted explanation on 05.02.2017, which fact, though denied by the learned Standing Counsel for the respondent, liberty is given to the petitioner to submit her explanation to the 2nd respondent, within two weeks from today, setting out all necessary facts including income and expenditure and the amounts that are being collected from the individual student to establish the fact that she has been running the institution on charitable basis. If the 2nd respondent is satisfied, within six weeks thereafter, final orders be passed granting necessary exemption, as applicable to the case of the petitioner.

As this issue has arisen in the case of the petitioner, for the first time, the demand as on date is kept in abeyance till the necessary final orders are passed.

With this, the Writ Petition stands disposed of. No costs.

Consequently, the miscellaneous Applications, if any shall also stand disposed of.

CHALLA KODANDA RAM, J

06th March 2017

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