THE HONB'E SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.10481 OF 2017

ORDER:

The writ petition is filed questioning the property tax demand notice dated 08.02.2017, issued under the Hyderabad Municipal Corporation Act, 1955 (for short, "the Act").

It is the contention of the petitioners that the Trust Association of the convention of Baptist Churches of the Northern Circars is a society registered under the Societies Registration Act and the society is engaged in the coordination of the activities of churches and other institutions such as schools, hospitals, orphanage hostels etc. It is stated that there are about 300 churches and 200 schools under the control of the convention of Baptist Churches of the Northern Circars (C.B.C.N.C). It is further stated that the entire schools, Junior Colleges, Churches, Hospitals are running in a charitable motive which are non profit making registered welfare society with an objective organize to promote education and welfare, run schools, churches, hospitals in 7 coastal districts of Andhra Pradesh and the society is running for charitable purposes. Schools are running imparting education without charging any fees from the students. The lands and buildings, portions of lands and buildings exclusively occupied and used for public charitable and welfare purposes that such societies supported by voluntary contributions. The very purpose of society includes provide relief of the poor provide education and medical relief and the expenditure incurred in running the society is supported by voluntary contributions. While things stood thus, the 3rd respondent issued the impugned demand notice directing the petitioners to pay the property taxes of Rs.15,23,262/-. It is stated that the structures to which the demand made is ruined about several decades ago and it is in dilapidated condition. Further, the petitioners submitted a representation dated 19.12.2010, requesting the corporation authorities, to exempt the property tax under Section 88(1)(c) of the A.P. Municipalities Act, 1965, as the petitioners rendering services in the filed of Education, Medical and Health Community Development Programmes, upliftment to the people who have been under below the poverty line and all the institutions are not profitable organizations and the petitioners are not using the buildings for commercial purposes. But, the respondent authorities without considering the representation submitted by the petitioners, making hectic efforts to seize the properties of the petitioners by putting lock to the main gates of the buildings of the petitioners. Hence, the writ petition.

The payment of property tax is governed by the provisions of the Act and the property tax is required to be paid either by the owner or by the occupier and there cannot be a combined order in favour of the association of private schools. The property tax demand would vary from school to school, depending upon the area under their occupation, nature of utilisation of the property and further the aspect whether the school is being run on charitable basis or not and the amount of fees that is being collected etc. These are all the issues which are required to be considered before exemption can be granted. It may be noted that property tax is liable to be paid by the occupier / owner and even exemption would be owner / occupier specific. In the circumstances, the request of the petitioners through their letter dated 09.12.2010, if they are otherwise entitled by placing necessary supporting material before the authorities that the petitioners are running the schools and medical institutions on charity basis, the respondent authorities may consider the same in accordance with law. It may also be noted that there cannot be an omnibus assessment to the property tax, it would depend on zone and locality, in which the property is situated, and the annual rental value, which are the basis for fixation of the property tax.

It may be further noted that in terms of the law declared by the Full Bench of this Court in a judgment in **Kakinada Education Society,**

Kakinada vs. Kakinada Municipal Corporation (W.P.Nos.4214 of 2006 and batch cases), the individual educational institutions are required to approach the respondent- corporation with necessary particulars and supporting material to justify their claim that the activities that are being carried out without profit motive and that there is no profit element in carrying out the activities, to justify their claim for exemption from the property tax.

In those circumstances, leaving it open to the respective members of the association to approach the Corporation, this Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM,J

Date:23.03.2017,
Gk.

THE HONB'E SRI JUSTICE CHALLA KONDANDA RAM

WRIT PETITION No.10481 OF 2017

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Gk.