IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 18.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.6667 of 2017
and
W.M.P.No.7183 of 2017

M/S.The Madras Baptist Church,
Rep. by the President/Correspondent
of the Institutions,
Board of Trustees
Re.Sukanya Baynes Prabhu,
No.115, Vepery High Road,
Periamet, Chennai - 3. ...Petitioner

Vs

1. The Chairman/Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board (CMWSSB),
No.1, Pumping Station Road,
Chennai - 2.

2. Senior Accounts Officer-V,
CMWSSB Board, Area-V,
No.1, M.C.Road, Anna Poonga,
Chennai - 2.

3. The Revenue Officer,
Corporation of Chennai,
Rippon Building, Chennai - 3. ...Respondents

(R3 is impleaded as per order dated
10.04.2017 in WMP.No.9184/2017 in
W.P.No.6667/2017)

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records pertaining to impugned demand notice Lr.No.CMWSSB/AREA/V/B&C/Spl/2017 dated 28.02.2017 on the file of the second respondent and quash the same.

For Petitioner : Mr.P.Sidharthan

For Respondents: Mr.M.Jothi Kumar
for R1 & R2

No Appearance
for R3

ORDER

Though the petitioner has raised several grounds challenging the demand made by the respondents herein with regard to levy of water tax, one of the main ground raised by the petitioner is that, the present demand has been made without disclosing the basis of the calculation for enhancing the water tax.

2. The learned counsel for the petitioner submitted that they had been regularly paying the water tax at the old rate, pursuant to the levy of property tax and since there was no further enhancement of property tax, there was no justification on the part of the respondents herein in enhancing the water tax.

3. The learned Standing Counsel appearing for the respondents objected to such a submission and stated that the demand has been made based on the calculation made by the Corporation and as such, there is no infirmity in the order. Even otherwise, the learned counsel submitted that since the Tribunal has now been constituted, the grievance of the petitioner should be addressed only before the Tribunal and the writ petition challenging the demand, is not maintainable.

4. I am not in agreement with such a submission of an alternative remedy, since the present demand, which is bereft of any details in calculating as to how the 3rd respondent/ Corporation have arrived at the enhanced amount, particularly when the stand taken by the petitioner that there was no further enhancement of the property tax and hence, the demand could be termed to be in violation of the principles of natural justice. While that being so, the petitioner may be justified in invoking Article 226 of the Constitution of India, without availing the alternative remedy.

5. In the light of the above observations, the petitioner is granted liberty to make a fresh representation raising his objections with regard to payment of water tax is concerned and on receipt of such an objection, the respondents herein shall consider the same on its own merits and pass appropriate orders, within a period of 60 days from the date of receipt of such representation. Till the disposal of such representation, the

respondents herein shall refrain from taking coercive action pursuant to the impugned demand made.

6. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

hvk

To

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Chennai - 2.

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CMWSSB Board, Area-V,
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Chennai - 2.

3. The Revenue Officer,
Corporation of Chennai,
Rippon Building, Chennai – 3.

+1cc to Mr.P.Sidharthan, Advocate, S.R.No.49345
+1cc to Mr.T.C.Gopalakrishnan, Standing Counsel, in sr.no.50247

W.P.No.6667 of 2017
and
W.M.P.No.7183 of 2017

RGN(CO)
CS/29/07/2019