IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.6162 of 2013
and
M.P.No.2 of 2013

Cherran's Arts and Science College,
Rep. by its Administrative Officer,
R.Balasubramaniam,
Thittuparai, Kangayam,
Maravapalayam Panchayat Union,
Tirrupur. ... Petitioner

Vs

1.The District collector,
Tirrupur District,
Tiruppur.

2.The Chairman,
Maravapalayam Panchayat Union,
Kangayam, Tiruppur.

3.The Block Development Officer,
Kangayam, Tiruppur District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus to call for the records in Proceedings in Na.Ka.No.1172/2011/A1, dated 19.10.2012 and the consequential proceedings No. Nil, dated 27.02.2013, on the file of the second respondent and quash the same as illegal, incompetent, unconstitutional and further direct the respondents to reassess the petitioner institution.

For Petitioner :Mr.V.Raghavachari

For Respondents :Mr.A.Kumar
Addl. A.G. for R-1
Mr.D.Yogeshwaran for R2 and R3

O R D E R

This writ petition has been filed challenging the demand notice issued by the second respondent Town Panchayat directing the petitioner to pay a sum of Rs.8,28,258/- towards house tax for the year 1997-1998.

2.The learned counsel appearing for the petitioner submitted that without any proper assessment of the house tax and even without conducting any enquiry, without giving an opportunity to the petitioner to raise his objections, the second respondent directed the petitioner to pay the amount by way of the impugned demand notice. Apart from that under Rule 15(c) of the Tamil Nadu Village Panchayats (Assessments and Collection of Taxes) Rules,1999, the petitioner educational building is exempted from paying house tax.

3.The second respondent filed his counter affidavit stating that the impugned demand notice in the writ petition is only a final notice directing the petitioner to pay the arrears of house tax. Already, the house tax has been assessed and demand notice has been issued to the petitioner on various dates for the period from 2006 - 2007 to 2010 to 2011. Last such demand notice was sent on 09.05.2011. Despite issuance of demand notice, the petitioner did not come forward to pay the amount. Hence, the impugned notice has been issued.

4.Mr.A.Kumar, the learned Additional Advocate General appearing for the 2nd respondent submitted that the 2nd respondent panchayat has properly assessed the house tax and number of demand notices have also been issued to the petitioner. Despite receipt of the demand notices, the petitioner failed to pay the house tax. Hence, the impugned notice has been issued to him to pay the house tax. So far as the exemption claimed by the petitioner, it cannot be granted as the above said rule has been deleted and the petitioner cannot claim any exemption under the Rule.

4.I have heard the rival submissions and perused the materials available on record.

5.The main objection raised by the petitioner is that before issuing the assessment order, no provisional assessment notice has been issued and the objection of the petitioner was not heard and without hearing the objection, the house tax has been demanded arbitrarily. A perusal of the impugned notice and other materials available on record reveals that before issuing the final demand notice, no provisional assessment notice has been issued to the petitioner and the objection of the petitioner was also not heard by the 2nd and 3rd respondents. Since the assessment order has been passed without giving an opportunity to the petitioner to raise his objection, I am of the view that without going into merits of the case, it is suffice to direct the 2nd and 3rd respondents to give an opportunity to the petitioner to raise his objection. In the event of any objection is filed, the 2nd respondent is directed to pass orders afresh after giving an opportunity to the petitioner. In such circumstances, the impugned order passed by the 2nd respondent is set aside and the matter is remanded back to the 3rd respondent. The petitioner is directed to submit his objection before the 3rd respondent within a period of 4 weeks from the date of receipt of a copy of this order and the 3rd respondent is directed to consider the petitioner's objection and pass suitable orders on merits and in accordance with law, after giving an opportunity of hearing to the petitioner, within a period of four weeks thereafter.

7.With the above observation, the writ petition is disposed of. No costs. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rrg
To

1.The District collector,
Tirrupur District,
Tiruppur.

2.The Chairman,
Maravapalayam Panchayat Union,
Kangayam, Tiruppur.

3.The Block Development Officer,
Kangayam, Tiruppur District.

+1cc to M/S.V.Raghavachari, Advocate Sr.59076
+1cc to the Government Pleader Sr.59311

W.P.No.6162 of 2013

rk[co]
srg 20/09/2018