

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.23954 of 2015
& MP No.1 of 2015

The Correspondent,
Bishop Francis Matriculation School,
N.G.G.O. Colony,
Coimbatore - 641 022.

...Petitioner

Vs.

1. The Director of Rural Developments,
Local Administration,
Panagal Building, Saidapet,
Chennai - 600 015.
2. The President,
Ashoka Puram Panchayat,
Periyanayakkanpalayam Panchyat Union,
N.G.G.O. Colony,
Coimbatore District - 641 022.
3. The Deputy Director of Panchyats,
The Deputy Directorate Office,
Coimbatore District.
4. The Block Development Officer,
Periyanayakkanpalayam Panchyat Union,
Coimbatore District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned notices issued by the 2nd respondent Panchayat President, dated 17.07.2014 and 22.08.2014 in respect of the petitioner's school-buildings bearing New Door No.3/477-3, under the 2nd respondent Village Panchayat, Ashokapuram, Periyanayakanpalayam Panchayat Union, N.G.G.O. Colony, Coimbatore District - 641 022 and quash the same.

For Petitioner	:	Mr.P.Godson Swaminath
For Respondents	:	Mr.I.Inbanathan, AGP (for R1 & R3) Mr.P.Chinnadurai (for R2 & R4)

ORDER

This writ petition has been filed to quash the impugned notices of the 2nd respondent, dated 17.07.2014 and 22.08.2014, in respect of the petitioner's school-buildings bearing New Door No.3/477-3, under the 2nd respondent Village Panchayat, Ashokapuram, Periyanaayakanpalayam Panchayat Union, N.G.G.O. Colony, Coimbatore District - 641 022.

2. The learned counsel for the petitioner submitted that after amendment of Rule 15 (c) of the Tamil Nadu Village Panchayat (Assessment and Collection of Taxes) Rules, 1999, the respondents, before imposing property tax, first has to determine, as to whether the petitioner-Institution is running the School on commercial basis and then quantify the tax amount, but both the requirements have not been followed in this case.

3. The learned counsel for the respondents 2 and 4, by referring the counter filed by the 4th respondent, submitted that the petitioner-Educational Institution is not an aided Institution and they are running self-financing institution on commercial basis, so they cannot seek exemption from the payment of property tax. It is further submitted that as per the circular / letter issued by the Commissioner of Rural Development, Panchayat Raj, Chennai, the petitioner is liable to pay tax at the rate of 2% per sq.ft.. Since the petitioner's building has an extent of 30,000/- sq.ft., they are liable to pay a sum of Rs.60,000/- from 2009-2010.

4. The learned Additional Government Pleader appearing for the respondents 1 and 3 submitted that the amendment of Rule 15 (c) of the said Rules was upheld by this Court in a batch of writ petitions in W.P.No.26999 of 2008, etc. by an order dated 30.07.2010, which was confirmed by the Division Bench. So, the petitioner is liable to pay the tax as per the amended Rule.

5. The learned counsel for the petitioner, in reply, submitted that the petitioner is not questioning the authority to impose tax, but their grievance is that the procedure was not followed.

6. A perusal of the order impugned reveals that the respondents have not quantified the tax to be paid by the petitioner. Though it is contended by the respondents that the petitioner-Institution is being run on commercial basis, no finding to that effect is available in the impugned order.

7. In the light of the above facts, the order impugned in this writ petition is liable to be set aside and the same is set

aside and the matter is remanded back to the 4th respondent to pass orders afresh, in accordance with law, after providing an opportunity of hearing to the petitioner. The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Director of Rural Developments,
Local Administration,
Panagal Building, Saidapet, Chennai - 600 015.
2. The President,
Ashoka Puram Panchayat,
Periyanayakkanpalayam Panchyat Union,
N.G.G.O. Colony, Coimbatore District - 641 022.
3. The Deputy Director of Panchyats,
The Deputy Directorate Office,
Coimbatore District.
4. The Block Development Officer,
Periyanayakkanpalayam Panchyat Union,
Coimbatore District.

+1 cc to Mr.P.Godson Swaminathan Advocate sr 14255
+1 cc to Mr.P.Chinnadurai Advocate sr 13966
+1 cc to the Govt Pleader sr 14486

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WP.No.23954 of 2015

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