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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.07.2019

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.21415 of 2019

&

W.M.P.No.20615 of 2019

Indian Christian Mission Centre (ICMC Trust)
Poovanur Village
Ayathiyapattinam Panchayat Union
Salem District
Pin - 636 122
Represented by its Managing Trustee
Rev.Dr.S.Jayaraj Krishnan

... Petitioner

Vs.

1. The Secretary to Government
Rural Development and Local Administration Department
Government of Tamil Nadu
Fort St. George
Chennai - 600 009

2. The Special officer/Executive Authority
Poovanur Village Panchayat
Ayathiya Pattinam Panchayat Union
Salem District

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 1st respondent herein to pass an order of exemption from levying and collecting of house tax on the petitioner trust sponsoring institutions namely, (1) St. Graham Memorial Nursery and Primary School (2) St. Neva Miller Matriculation School, (3) St. Graham Memorial Higher Secondary School, (4) St. Grace Lillian College of Education and (5) St Bonnie White College of Nursing by virtue of Section 15 of the Tamil Nadu Panchayat Act, by disposing the petitioner's representation dated 10.12.2018.



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For Petitioner : Mr.Manoharan Sundaram

For Respondents : Mr.R.P.Pratap Singh
Government Advocate for R1

Mr.P.P.Purushothaman
Government Advocate for R2

ORDER

Mr.Manoharan Sundaram, learned counsel on record for writ petitioner is before this Court. Mr.R.P.Pratap Singh, learned Government Advocate accepts notice on behalf of first respondent and Mr.Purushothaman, learned Government Advocate accepts notice on behalf of second respondent.

2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3.It is submitted by learned counsel for writ petitioner that writ petitioner is a non-profitable non-Government organization and it is a charitable institution. It is submitted that it is serving downtrodden people.

4.Subject matter of instant writ petition is levy of house tax under Tamil Nadu Panchayat Act, 1994 for the writ petitioner's immovable properties. As many as five properties have been enumerated and they are as follows:

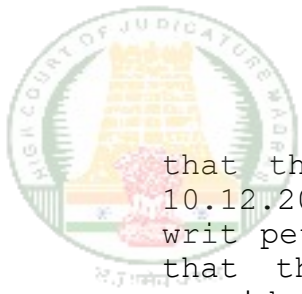
1. St. Graham Memorial Nursery and Primary School;
2. St. Neva Miller Matriculation School;
3. St. Graham Memorial Higher Secondary School;
4. St.Grace Lillian College of Education; and
5. St Bonnie White College of Nursing

5. It is writ petitioner counsel's say that immovable properties used for following purposes are exempt from house tax:

'(a) Buildings set apart for public worship and either actually so or used for no other purpose;

(b) Choultries for the occupation of which no rent is charged and choultries where the rent is charged for the occupation is used exclusively for charitable purpose;

(c)Buildings used for educational purposes including hostels and libraries which are open to the public buildings used for charitable purpose of sheltering the Destitute or animals:



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that the writ petitioner has now sent a representation dated 10.12.2018 to the first respondent (post dismissal of aforesaid writ petitions by another Hon'ble single Judge on 01.08.2018 and that there may be a direction to the first respondent to consider the same.

12. This Court is unable to accede to this request of the writ petitioner as the same issue has been canvassed by the writ petitioner in earlier writ petitions and another Hon'ble single Judge has dismissed the writ petition i.e., W.P.No.5816 of 2011 etc., vide order dated 01.08.2018 after hearing both sides. Therefore, writ petitioner cannot now be heard to contend before another single Judge i.e., this Court that the earlier order came to be passed on an erroneous application of facts that the aforesaid institutions and the buildings where they are run are self-financing institutions for profit motive.

13. As a matter of judicial discipline, this Court refrains itself from entertaining the instant writ petition. The contention that is now being raised by the writ petitioner with regard to the earlier order made by another Hon'ble Judge, at best, qualifies as a ground for review and therefore, writ petitioner may have to go before the same Hon'ble Judge who passed the earlier order dated 01.08.2018 by way of a review petition.

14. Therefore, without expressing any opinion on merits, instant writ petition is dismissed holding that the second writ petition on the same issue cannot be entertained owing to dismissal of earlier writ petition in W.P.No.5816 of 2011 etc., on 01.08.2018 by another Hon'ble Judge.

This writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Secretary to Government
Rural Development and Local Administration Department
Government of Tamil Nadu
Fort St.George, Chennai - 600 009



2. The Special officer/Executive Authority
Poovanur Village Panchayat
Ayathiya Pattinam Panchayat Union
Salem District.

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+1cc to Mr.Manoharan Sundaram, Advocate, S.R.No.63335
+1cc to the Government Pleader, S.R.No.62610

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SJ(CO)
CS/05/09/2019