

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.08.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.Nos.31207, 31524 & 30705 of 2018

and

WMP Nos.36409, 36744 & 35822 of 2018

Williams Matriculation Higher

Secondary School

A unit of Williams Educational Trust

Rep. by its Correspondent

Mrs.Selina Williams.

... Petitioner

in

W.P.No.31207/2018

Vani Vidyalaya Matriculation Higher

Secondary School

A unit of Gandhinagar Welfare Trust

Rep. by its Correspondent

Mr.S.Manivannan.

... Petitioner in

W.P.No.31524/2018

L.E.F.Eden Garden Matriculation School

A unit of Laymen's Evangelical Fellowship

Rep. by its Correspondent

Mr.G.J.Gnanapragasam.

Petitioner in

...

W.P.No.30705/2018

vs.

1.Government of Tamil Nadu

Represented by its Secretary

Department of Municipal Administration

and Water Supply Department,

Fort St. George, Chennai - 600 009. ... Respondent No.1

in all W.Ps.

2.The Commissioner

Vellore Municipal Corporation

Vellore.

... Respondent No.2

in W.P.Nos.31207

& 31524/2018

3.The Commissioner
Salem Municipal Corporation
Salem.

... Respondent No.2

in W.P.No.30705/2018

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 2nd respondent to drop all the proceedings with respect to the impugned Demand Notices dated 13.08.2018 in Assessment No.035/008/02761, 035/008/02762, 035/007/03264 and impugned demand notice dated 21.07.2018 in Assessment No.049/014/03552 issued by the 2nd respondent calling upon the petitioner school to pay Rs.24,230/- & Rs.9,350/-, Rs.3,31,786/- and Rs.58,155/- as property tax and pass such other order as are deemed fit and proper in the facts and circumstances of this case and thus render justice.

For Petitioner :
Ms.Anusarala for
(In all W.Ps)
Mr.S.Seralathan
For Respondents :
Mr.R.P.Pratap Singh,

Government Advocate for Rlin all W.Ps.

Ms.P.Shanthi,

Standing Counsel for
Vellore Corporation for R2

in W.P.Nos.31207 & 31524/2018

Ms.K.Bhuvaneswari,
Standing Counsel for
Salem Corporation for R2
in W.P.No.30705/2018.

COMMON ORDER

Ms.Anusarala, learned counsel representing the counsel on record for writ petitioner in all these three writ petitions, Mr.R.P.Pratap Singh, learned Government Advocate, who accepts notice on behalf of respondent No.1 in all these three writ petitions, Ms.P.Shanthi, learned Standing Counsel for Vellore Corporation, who accepts notice on behalf of respondent No.2 in W.P.Nos.31207 & 31524 of 2018 and Ms.K.Bhuvaneswari, learned Standing Counsel for Salem Corporation, who accepts notice on behalf of respondent No.2 in W.P.No.30705 of 2018 are before this Court.

2. It is submitted by all the aforesaid learned counsel without any dispute or disagreement that these writ petitions pertain to immovable properties qua unaided educational institutions and therefore, these writ petitions are directly and squarely covered by a common order dated 13.08.2019 made by this Court in W.P.Nos.4788 of 2019 etc., batch.

3. Relevant portion of order dated 13.08.2019 made in W.P.Nos.4788 of 2019 etc., batch reads as follows:

'4. This Court is informed without any dispute or disagreement that the writ petitioners in all these 41 writ petitions are unaided educational institutions and levy of property tax / attendant levy on properties used for educational purposes by these writ petitioners is subject matter of instant writ petitions.

5. There is also no dispute or disagreement that the levy of property tax with regard to buildings of these writ petitioners in which educational institutions

are functioning is governed by the 'Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act 5 of 1920)' [hereinafter 'District Municipalities Act' for brevity].

6. What is of relevance is Section 83(1)(c) of District Municipalities Act. Section 83 of District Municipalities Act is captioned 'General Exemptions' and 83(1)(c) reads as follows:

'83. General Exemptions-

(1).....

(a).....

(b).....

(c) [buildings used for educational purpose including hostels attached thereto, public buildings and places used for the charitable purpose] of sheltering the destitute or animals, and libraries and playgrounds which are open to the public;'

7. Aforesaid Section 83(1)(c) of District Municipalities Act, was amended by Part V of Act No.6 of 2018, which came into force on and with effect from 25.01.2018.

8. Vide aforesaid Act No.6 of 2018 (Part V), Section 83(1)(c) of District Municipalities Act was amended and Part V reads as follows:

'PART-V

AMENDMENTS TO THE TAMIL NADU DISTRICT MUNICIPALITIES ACT, 1920

5. In section 83 of the Tamil Nadu District Municipalities Act, 1920, In sub-section (1)-

(1) for clause (c), the following clause shall be substituted, namely:-

"(c) buildings used for educational purpose including hostels and libraries, run by the Government or municipality or any other local authority or institutions aided by the Government and buildings used for charitable

purpose of sheltering the destitute or animals and orphanages, homes and schools for the deaf and dumb, asylum for the aged and fallen women and such similar institutions run purely on philanthropic lines as are approved by the council:

Provided that the buildings used for educational purpose by the Government aided institutions for conducting self-financing courses shall be subject to levy of property tax;";

(2) In the proviso, for the expression "clauses(a), (c) and (e)", the expression "clauses(a) and (e)" shall be substituted.'

9. Pursuant to the aforesaid amendment to Section 83(1)(c) of District Municipalities Act, which came into force on and with effect from 25.01.2018, a Circular dated 25.05.2018 issued by Commissionerate of Municipal Administration came to be issued and there was demand of property tax qua writ petitioners, for buildings used for educational purposes which resulted in the filing of the instant writ petitions, assailing said circular and consequent respective demands qua each of the writ petitions.

10. Along with the writ petitions, interim prayers were sought for vide Writ Miscellaneous Petitions(WMPs), conditional interim orders have been passed and the same are now operating. Writ petitioners submit that they have complied with the conditions and therefore, they have interim protection.

11. Be that as it may, this Court is informed without any disputation or disagreement that several writ petitions (some of which have been filed by the writ petitioners herein, being W.P.Nos.31196, 31613, 29211, 31368, 31129, 29234, 30364, 26633, 29242, 20519, 29204, 30689, 31134, 31107, 23676, 30703, 33386, 31418, 28113, 26574, 28099, 30371, 31426, 31120, 31100, 33375, 27451, 29217, 30695, 29388, 28123, 20537,

30236, 30679, 30274, 31063, 31336 and 31060 of 2018) have been filed, assailing the vires of aforementioned Part V of Act No.6 of 2018. This Court is informed that Hon'ble Division Bench is in seizin of such writ petitions assailing the vires of Part V of Act No.6 of 2018. Arguments have been heard and orders have been reserved is common say of both sides.

12. From the aforesaid undisputed narrative, it unfurls with clarity and specificity that the impugned Circular dated 25.05.2018, which has been called in question in the instant writ petitions and the consequent demands on the respective writ petitioners will depend on the outcome of the writ petitions, which Hon'ble Division Bench is in seizin of as the vires of Part V of Act No.6 of 2018 is under challenge.

13. This Court has also notices the undisputed submissions that arguments have been concluded and orders have been reserved by Hon'ble Division Bench.

14. Purely, as a matter of illustration, it may be necessary to mention that if the Hon'ble Division Bench sustains the challenge to Part V of Act No.6 of 2018, impugned Circulars will automatically become inoperative and so will be the fate of the consequent demands. On the contrary, if the Hon'ble Division Bench negatives the challenge to the vires of Part V of Act No.6 of 2018, the impugned Circular dated 25.05.2018 and consequent demands will have to be carried to their logical end. If any other order is passed by Hon'ble Division Bench, obviously, the impugned Circular and the consequent demand will stand governed by such orders that may be passed by the Hon'ble Division Bench. The reason is there is no disputation about the obtaining position 'Absent Part V of Act No.6 of 2018, there can be no circular dated 25.05.2018 bearing ROC.No.7234/2014/R1 and consequent demands'.

4. There will be a similar order in the instant writ petitions also in terms of the earlier order dated 13.08.2019 made in W.P.Nos.4788 of 2019 etc. batch. Therefore, the following order is passed :

a) Writ petitioners will continue to pay quantum, which they are now paying (as per interim orders in these writ petitions) till the disposal of writ petitions assailing vires of Part V of Act No.6 of 2018 by Hon'ble Division Bench.

b) As already alluded to supra, the interim orders are conditional interim orders and if there is any breach of the condition, it will be open to the respondents to proceed in accordance with law.

c) All questions pertaining to challenge to the impugned demands are left open for being canvassed, if it becomes necessary by the writ petitioners subject to the outcome of the writ petitions, which the Hon'ble Division Bench is now in seizin of.

d) In other words, though obvious, for the sake of specificity, it is made clear that this Court is not expressing any opinion or view on the arguments and counter arguments assailing the impugned demands made under relevant Rules of Schedule IV of District Municipalities Act.

5. Writ petitions are disposed of in above terms. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

vsm

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To

1.The Secretary
Department of Municipal Administration
and Water Supply Department,
Fort St. George, Chennai - 600 009.

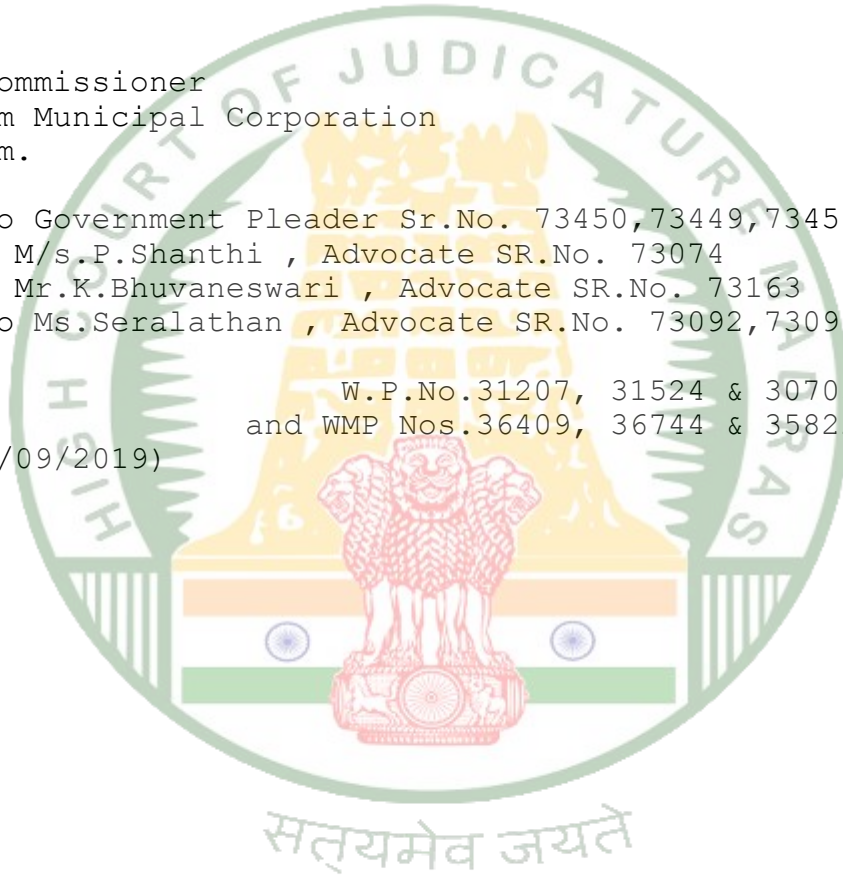
2.The Commissioner
Vellore Municipal Corporation
Vellore.

3.The Commissioner
Salem Municipal Corporation
Salem.

+1 cc to Government Pleader Sr.No. 73450,73449,73451
+1cc to M/s.P.Shanthi , Advocate SR.No. 73074
+1cc to Mr.K.Bhuvaneswari , Advocate SR.No. 73163
+3ccs to Ms.Seralathan , Advocate SR.No. 73092,73091,73090

W.P.No.31207, 31524 & 30705 of 2018
and WMP Nos.36409, 36744 & 35822 of 2018

A.SK(24/09/2019)



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