

Reportable

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 6988 OF 2016

(Pandurang Mahadeorao Makrampure and Ors..Vs.. Addl. Commissioner, Amravati
 Divn, Amravati & Ors)

*Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's Orders.*

Court's or Judge's orders.

 Shri S.S. Dhengale, Advocate for petitioner.
 Shri. A.A. Madiwale, AGP for respondent Nos. 1 & 2.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 7th JANUARY, 2020.

1. By this petition, the petitioners are aggrieved by the order dated 26.8.2016, passed by respondent No. 2 Additional Collector, Amravati by which these petitioners have been disqualified under section 14(1)(h) of the Maharashtra Village Panchayats Act on account of being defaulters in payment of Gram Panchayat taxes. They are also aggrieved by the order dated 25.11.2016, passed by the Additional Commissioner, Amravati, by which their disqualification has been sustained.

2. On 6.1.2017, this Court granted ad-interim protection to the petitioners taking into account that all of them were out of office and the impugned orders were implemented. A statement made by the petitioners that they have paid all the taxes in March, 2016, was noted by this Court and based on such statement, the ad-interim protection was granted to these petitioners.

3. The learned Advocate for the petitioners has strenuously criticized the impugned orders. He submits that Rule 8 of the Maharashtra Village Panchayats Taxes and Fees Rules, 1960 does not permit collection of prospective taxes. Contention is that such taxes can be collected by the Gram Panchayat under Rule 8 only after the taxes have become due and payable and this cannot be made applicable prospectively.

4. It is further submitted that the bills were raised by the Village Panchayat on 13.6.2015, and these petitioners were shown to be in arrears. It is undisputed that these petitioners were elected as members of the Gram Panchayat on 10.5.2015. It is therefore, submitted that as these bills are for the prospective period, for the financial year 1.4.2015 to 31.3.2016, these bills are defective, legally unsustainable and amount to collecting of prospective taxes.

5. Reliance is placed upon the observations of the learned Division Bench of this Court set out in Re:1, 2 and 3 in the judgment dated 22.12.2015 delivered at Nagpur in Writ Petition No. 3834 of 2009 in the matter of ***Ashok Tukaram Dohe .vs. Divisional Commissioner, Nagpur & Ors.*** For ready reference, the said three answers are produced as under:

“Re:1. The view expressed by the learned Single Judge in the decision in the case of Angha Ajit Bhatkar, reported in 2006(6) Mh.L.J., 13 is not

the correct position of law.

Re:2. In terms of Rule 8 of the Maharashtra Village Panchayats Taxes and Fees Rules, 1960, the Gram Panchayats are not required to demand and collect taxes on properties in four quarterly instalments, beginning from the 1st of April, 1st of July, 1st of October and 1st of January if tax is leviable on such

Re:3. In terms of Rule 8, the Gram Panchayats would be required to demand and collect tax in quarterly instalments only if the tax is not leviable at the beginning of the financial year and becomes leviable after the 1st of April.

6. The learned advocate for the petitioners strenuously submits that the answer under Re:3 would be relevant to the case as the petitioners are squarely covered by the said conclusion. He submits that the taxes were not leviable on 1.4.2015 and since the Gram Panchayat seeks to collect prospective taxes, non payment of prospective taxes would not be a ground for disqualification of the petitioners.

7. He further emphatically submits and rightly so that on the date of their elections, none of the petitioners were in arrears of taxes and all of them had cleared the taxes as were leviable. He therefore, submits that considering that they have not incurred any disqualification on the date of their elections, levying of prospective taxes, can not be a ground for disqualifying the petitioners.

8. The learned AGP has strenuously opposed this petition.

9. I find that all these petitioners have immovable house properties in the Gram Panchayat. Taxes become due on 1st April of each financial year which is the beginning of the financial year. It is submitted that bills were delayedly issued and were served in 3 days to 6 days upon each of the petitioners. They had three months time to pay the taxes and section 14(1)(h) is not in connection with the solitary incident of the date of elections as a date of reference. The learned Division Bench in *Ashok Tukaram Dohe .vs. Divisional Commissioner, Nagpur & Ors*, in paragraph 6 has held that when an annual bill can be raised for taxes which are leviable at the beginning of the financial year, the bills are not required to be split into four quarters and four different bills are not required to be issued. I find it apposite to reproduce paragraph 6 of a judgment in *Ashok Tukaram Dohe* (supra) hereunder:

“6. On a reading of the judgment in the case of *Angha Ajit bhatkar .v. State of Maharashtra* as also the order of reference, we find that we are in agreement with the view expressed by the learned Single Judge in the order of reference, dated 24th September, 2009.

The provisions of Rule 8 of the Rules of 1960 read thus:

“8. *Tax effective from what date.* The tax shall be leviable for the year beginning on 1st April and ending on 31st March and shall not come into force

except on the following dates, viz., 1st April, 1st July, 1st October or 1st January, in any year and if it comes into force on any day other than the 1st April it shall be leviable by the quarter till the 1st April next following.”

It is clear from a reading of the provisions of Rule 8 of the Rules that the tax shall be leviable for the year beginning on the 1st of April and ending on the 31st of March. This would clearly mean that a tax bill would pertain to a period of one year commencing from the 1st of April and ending on the 31st of March. A tax bill in respect of the property that is already assessed to tax cannot be split into four parts and it would not be necessary to issue four tax bills for the four quarters of a financial year, commencing from the 1st of April, 1st of July, 1st of October and 1st of January as expressed by the learned Single Judge in the case of *Angha Ajit bhatkar .v. State of Maharashtra* . In our considered view, Rule 8 does not provide for the issuance of four bills in respect of the tax payable for each of the quarters beginning from the 1st of April, 1st of July, 1st of October and the 1st of January of the relevant year if tax is leviable on such property on the 1st of April. It would not be necessary for a Gram Panchayat to issue four separate bills and demand the tax in four quarterly instalments in such cases. The provisions of Rule 8 clearly specify that the tax would be leviable for the year beginning on the 1st of April and ending on the 31st of March and hence a solitary tax bill for the entire year could be issued to the person concerned. It is not possible for us to accept the view that even if a single bill is issued, the bill should be split into four parts, clearly specifying the amount of tax payable for each of the quarter and the due date for payment of the tax for the quarter. There is nothing in Rule 8 that requires the issuance of four separate bills or the splitting of the bills into four parts clearly specifying as to what tax is payable during each of the quarter. It s

rightly observed by the learned Single Judge in the order of reference that if a house property is already assessed to tax in any of the previous financial years, the tax on such property would become due from the 1st of April and if a property is not assessed to tax or becomes liable for payment of tax during the financial year (i.e. the property is not already liable to be taxed before the 31st March), then the tax on such property would not be leviable from the date of completion of the construction of the property, or the date of assessment, or the date from which the property was included in the Gram Panchayat limits but from the 1st date of the quarter commencing next, after such assessment or liability. Only when a property is assessed to tax after the 31st of March, the tax would be leviable on the said property from the first date of the quarter commencing next, after such assessment or liability. It is rightly submitted that if the house property is assessed to tax for the first time on the 20th of September, then the tax would be leviable on the said property, from the beginning of the quarter commencing from the 1st of October and not from the 20th of September and in such a case, the tax would be leviable by the quarters till the 1st of April of the next financial year. We find that the view expressed by the learned Single Judge in the order of reference appears to be the correct position of law.

Upon the discussion, we now proceed to answer the questions formulated in the order of reference -

Re:1. The view expressed by the learned Single Judge in the decision in the case of Angha Ajit Bhatkar, reported in 2006(6) Mh.L.J., 13 is not the correct position of law.

Re:2. In terms of Rule 8 of the Maharashtra Village Panchayats Taxes and Fees Rules, 1960, the Gram

Panchayats are not required to demand and collect taxes on properties in four quarterly instalments, beginning from the 1st of April, 1st of July, 1st of October and 1st of January if tax is leviable on such Re:3. In terms of Rule 8, the Gram Panchayats would be required to demand and collect tax in quarterly instalments only if the tax is not leviable at the beginning of the financial year and becomes leviable after the 1st of April.

It would not be necessary to remit the writ petition to the learned Single Judge for deciding the controversy on merits as the term of the office of the petitioner as a Member of Panchayat Samiti, Korapana has expired during the pendency of the petition. Hence, the writ petition is disposed of with no order as to costs. Order accordingly.

10. Rule 8 of the 1960 Rules reads as under:

“8. *Tax effective from what date.* The tax shall be leviable for the year beginning on 1st April and ending on 31st March and shall not come into force except on the following dates, viz., 1st April, 1st July, 1st October or 1st January, in any year and if it comes into force on any day other than the 1st April it shall be leviable by the quarter till the 1st April next following.”

11. The language used in Rule 8 can neither be said to be ambiguous nor confusing. It clearly mentions that the taxes are leviable for the year beginning on 1st April and ending on 31st March, as being the financial year for which the taxes have to be collected. It therefore makes it clear that the taxes which are leviable for the financial year

beginning on 1st April, have to be levied by the Gram Panchayat for the financial year that follows. It does not speak about the financial year which has already passed by and the taxes are being levied with retrospective effect for the financial year that has already concluded.

12. In the instant case, the Gram Panchayat has raised the bills with reference to the financial year 1.4.2015 to 31.3.2016. The properties are immovable house properties. Each financial year beginning from 1st April to 31st March, attracts the taxes and the Gram Panchayat has been routinely recovering such taxes from these petitioners.

13. The contention of the petitioners that the conclusion of the learned Division Bench in Re:3 would become applicable to their case, is fallacious for the reason that it pertains to the demand of taxes only if the taxes are not leviable at the beginning of the financial year and become leviable after 1st April. In the instant case, the taxes demanded are leviable for each financial year beginning from 1st April and they were therefore leviable on 1.4.2015. These bills were raised after the elections of these petitioners and such taxes were payable for the financial year 1.4.2015 to 31.3.2016. In this backdrop, the conclusions of the learned Division Bench in ***Ashok Tukaram Dohe*** (supra) that Rule 8 clearly specifies that the taxes would be leviable for the year beginning on 1st April and ending on 31st April and hence a solitary taxes bill for

the entire year could be issued to the person concerned, becomes squarely applicable to this case. It is further held in the case of ***Ashok Tukaram Dohe*** (supra) that it is not possible to accept the view that even if a single bill is to be issued, the bill should be split into four parts.

14. In the light of the above, I do not find any fault with the bills issued and it requires no debate that these taxes were leviable on these petitioners for the financial year 1.4.2015 to 31.3.2016.

15. This leaves the last limb of the petitioners contentions to be considered. It is contended that section 14(1)(h) has to be interpreted as being applicable to the elected representatives considering the date on which they were elected. In short, the submission of the petitioners is that if they are not in arrears of taxes on the date of their election, section 14(1)(h) would not be attracted during their elected tenure. I do not find that the said submission would stand the test of law in the light of the language used in section 14(1)(h) which aims at dealing with the continuous payment of taxes by the elected representatives.

16. Section 14(1)(h) mandates that whenever the taxes are levied on such elected representatives, they are supposed to clear all the taxes within three months from the date the amount of taxes is demanded and the bill is served on the parties. Admittedly, all these bills were served on

the petitioners in between 2.7.2015 to 6.7.2015. Admittedly, all these petitioners have paid their taxes in between 1.3.2016 and 31.3.2016 which is much beyond three months as is mandated by section 14(1)(h).

17. In view of the above, I do not find that the impugned orders could be branded as being perverse or erroneous. This petition, being devoid of merits, is therefore, dismissed.

(Ravindra V. Ghuge, J.)