IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 26242 of 2010
and
M.P. Nos. 1 & 2 of 2010

K.P.Chandrasekaran B.A.B.L.,
Advocate
Manager & Correspondent,
Viswabharathi Middle School,
No.51, T.K.Mudali Street,
Choolai, Chennai - 600 112. ...Petitioner

Vs

1. The Commissioner,
   Corporation of Chennai,
   Ribbon Building,
   Chennai - 600 003.
2. The Managing Director,
   Chennai Metropolitan
   Water & Sewerage Board,
   No.1, Pumbing Station,
   Chennai - 2.
3. The Area Engineer-III,
   CMWSS Board, Area-III,
   3, Vadivelu 2nd Cross Street,
   Perambur, Chennai - 600 011. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in respect of the Order C.M.C.No.03/046/0195/00 dated 03-11-2010 issued by the 3rd Respondent quash the same and direct the Respondent to restore drinking water connection to the petitioner's Children School.

For Petitioner : Ms.P.C.Saranya
for M/s.K.Ambika
For R1 : Ms.Karthikaa Ashok
Standing Counsel
For R2 & R3 : Mr.I.David Singh

ORDER

The petitioner has challenged the impugned demand notice dated 03.11.2010 issued by the 3rd respondent demanding a sum of

Rs.44,105/- as arrears of Water Tax for the period commencing from 2nd half of 2007-2008 to 2nd half of 2010-2011 and surcharge for the period commencing from 1st half of 1997-1998 to 2nd half of 2010-2011.

2. The case of the petitioner is that the petitioner is exempted from payment of property tax in terms of Section 101(c) of the Chennai City Municipal Corporation Act, 1919 as it is an aided middle school and the petitioner conducted school in Tamil Medium where, the students are not only getting Government free text-books but also free uniforms.

3. The learned counsel for the petitioner submits that since the petitioner is exempted from payment of property tax under Section 101(c) of the Chennai City Municipal Corporation Act, 1919, the petitioner is also entitled for exemption from payment of Water & Sewerage Tax under Section 35 of the Chennai Metropolitan Water Supply & Sewerage Act, 1978. In this connection, a reference is made to a decision rendered by this Court in The Madras Sanskrit College, Chennai Vs Chennai Metro Water Supply and Sewerage Board, Chennai, rendered in (2009) 5 L.W. 320. According to the learned counsel for the petitioner as per the said decision, the petitioner is entitled for exemption from payment of Water & Sewerage Tax also.

4. The learned counsel for the 2nd & 3rd respondents submits that the issue as to whether the petitioner was entitled to exemption or not was considered by the board as early as 1995 and it was decided not to exempt Educational Institutions from payment of Water and Sewerage Tax as per the earlier resolution dated 12.03.1992 and that in the case of new Educational Institutions coming up in future, Corporation of Madras may be requested to convey the Annual Rental Value to Metrowater so that water and sewerage tax can be paid.

5. Ms.Karthikaa Ashok, learned standing counsel for the 1st respondent/Corporation of Chennai submits that exemption from payment of property tax is subject to provision under Section 101(c) of the Chennai City Municipal Corporation Act, 1919 is not and whether the petitioner has obtained such exemption from the Corporation of Chennai is not available. She submits that there is no automatic exemption from payment of Water & Sewerage Tax under the provisions of the Chennai Metropolitan Water Supply & Sewerage Act, 1978.

6. Heard the learned counsel for the petitioner and the respondents and I have considered the case laws filed by the learned counsel for the petitioner in The Madras Sanskrit College, Chennai Vs Chennai Metropolitan Water Supply and Sewerage Board, Chennai and others, (2009) 5 L.W. 320.

7. In the aforesaid case, the Court has merely observed that under Section 101 of the Chennai City Municipal Corporation Act, 1919, exemption is granted to all the educational institutions from payment of property tax and the petitioner therein being an Educational Institution was also exempted from payment of property tax under the amended provision of Chennai Metropolitan Water Supply & Sewerage Act, 1978. While disposing the said writ petition ultimately the Court held as follows:-

> "17.Admittedly, there is no limitation to demand metro water and sewerage tax and water charges as per Section 74 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978. In view of the same, it is open to the respondents to properly assess the tax payable by the petitioner. The amount already paid by the petitioner is directed to be adjusted after making proper assessment. The respondents are directed to assess the value of the tax as required under Section 34 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978 and demand the same from the petitioner. On such assessment as already stated, the amount already paid can be given credit to and the arrears if any can be demanded from the petitioner
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> The writ petitions are disposed of accordingly. No costs."

8. In fact this very case of The Madras Sanskrit College, Chennai Vs Chennai Metro Water Supply and Sewerage Board, Chennai in the 2nd round came up before this Court on 19.02.2021 vide W.P.No.9919 of 2016. The said Writ Petition was disposed of by directing the authorities under the Chennai Metropolitan Water Supply and Sewerage Act, 1978 to determine the annual value of the property for payment of Water & Sewerage Tax under Section 35 of the aforesaid Act. There is no authority under the law which exempts a school or the educational institutions from payment of Water & Sewerage Tax merely because the school building is exempted from payment of property tax under the provisions of the Chennai Municipal Corporation Act, 1919. If that was the case, the Court would have also granted relief to the Madras Sanskrit College case while disposing the W.P.Nos. 8958 to 8960 of 2001, while passing its order dated 27.07.2009.

9. The argument that after 1994, no Water Tax is payable by the educational institution also fails because the Court in the above case considered the payment of Water & Sewerage Tax for the period commencing from 1st half of 1993-1994 to 1st half of 2000-2001 and 2nd half of 1996-1997 to 1st half of 2000-2001.

10. Therefore, I do not find any merits in the present writ petition except to direct the respondent concerned under the provisions of Chennai Metropolitan Water Supply & Sewerage Act, 1978 to determine the annual value of the property of the petitioner's school under Section 35 of the aforesaid Act, 1978. On such determination to be carried out by the respondents, the tax may be demanded from the petitioner. This order is passed without prejudice to the rights of the petitioner to approach the 1st respondent for exemption from payment of Water & Sewerage Tax, considering the fact that the petitioner is engaged in providing education and is receiving aids from Government of Tamil Nadu.

11. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Corporation of Chennai,
Ribbon Building,
Chennai - 600 003.
2. The Managing Director,
Chennai Metropolitan
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No.1, Pumbing Station,
Chennai - 2.
3. The Area Engineer-III,
CMWSS Board, Area-III,
3, Vadivelu 2nd Cross Street,
Perambur, Chennai - 600 011.

+1cc to M/s.K.Ambika, Advocate, sr no.11123
+1cc to M/s.Karthikaa Ashok, Advocate, sr no.1086
+1cc to Mr.I.David Singh, Advocate, sr no.10540

W.P. No. 26242 of 2010
and
M.P.Nos. 1 & 2 of 2010

GPL(CO)
RMP(25/03/2021)