



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.7337 of 2019

&

WMP.Nos.8012 & 8014 of 2019

Patrician College of Arts and Science
Rep.by the Secretary
Canal Bank Road
Gandhi Nagar, Adyar
Chennai - 600 020

... Petitioner

Vs.

1. Chennai Metropolitan Water Supply and Sewerage Board
Represented by its Managing Director
No.1, Pumping Station Road
Chindathripet
Chennai - 600 002.
2. Managing Director
Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road
Chindathripet
Chennai - 600 002.
3. Deputy Area Engineer - 40
Area XIII/CMWSSB
No.24, Bakthavatchalam Nagar
5th Cross Street,
Adyar, Chennai - 600 020.
- 4.The State of Tamil Nadu,
Represented by the Secretary,
Municipal Administration and Water Supply Department,
Secretariat, Fort St.George, Chennai - 600 009.
(R4 Suo Motu impleaded vide order dated 01.11.2021
made in W.P.No.7337 of 2019 by MSJ) ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the impugned revised Assessment Order dated 18.01.2019 in Lr. No. CMWSSB/AREAXIII/DAE-40/TAX/SPL/2019 in C.M.C. No. 13/175/26561/000 on the file of the 3rd respondent and the consequential impugned Demand Notice dated 30.01.2019 in Notice No.4257 in C.M.C.No.13/175/23741 on the file of the 3rd respondent and quash the same in respect of the petitioner college.



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For Petitioner : Dr.Father Xavier Arulraj
Senior counsel
for Ms.A.Arul Mary

For Respondents: Mr.NRR.Arun Natarajan
Government Advocate

O R D E R

Father Xavier, learned Senior advocate of M/s. Father Xavier Associates (law firm) for writ petitioner and Mr.NRR.Arun Natarajan learned State counsel for all the three respondents are before this Court.

2. Read this in conjunction with and in continuation of earlier proceedings made in the previous listings on 21.09.2021, 27.10.2021 and 28.10.2021 which reads as follows:

Proceedings on 21.09.2021:

'Mr.Father Xavier, learned senior counsel instructed by counsel on record for writ petitioner is before this Virtual Court.

2. Mr.NRR.Arun Natarajan, learned State counsel accepts notice on behalf of all the three respondents.

3. Read this in conjunction with and in continuation of earlier proceedings made by Hon'ble predecessor Judge, which reads as follows:

'Mr. Jothikumar, learned Standing Counsel, takes notice for the respondents and seeks three weeks time to file a counter.

2. Prior to issuance of impugned cut off notice, dated 30.01.2019, the petitioner has received a notice dated 18.01.2019 proposing revision of the tax and charges payable to the Chennai Metropolitan Water Supply and Sewerage Board (in short 'CMWSSB').

3. Dr. Father Xavier Arul Raj, learned senior counsel, for Ms. A.Arul Mary, learned counsel for the petitioner College states that upon receipt of the notice, dated 18.01.2019 the petitioner College had infact deputed officials to meet the Officers of the CMWSSB and have requested them to inspect the property and make assessment.

4. The petitioner still await the visit of the officials for the purposes of assessing the place and computing the demand in a proper manner. While this is so, the impugned notice has been issued raising demand even in the absence of an assessment or computation working sheet having been furnished to the petitioner.



5. In the light of the aforesaid, there shall be an interim stay till 04.04.2019. List the matter on 04.04.2019. Counter to be filed by then with an advance copy served on the petitioner.'

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4. Adverting to the above, more particularly paragraph 4 thereat, learned State counsel submits that the officials will make a site visit within one week, examine the possibility of giving water and sewerage connection to the writ petitioner college and file a report in this Court after sharing advance copy with the counsel for writ petitioner. Learned senior counsel for writ petitioner submits that writ petitioner is a unaided college with student strength of four thousands.

The inspection and filing / sharing of report to be completed by 30.09.2021. List on 01.10.2021.'

Proceedings on 27.10.2021:

'Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 21.09.2021.

2. Mr.Father Xavier, learned Senior Counsel instructed by counsel on record is before this Court. Adverting to the earlier proceedings made on 21.09.2021, learned State counsel Mr..NRR.Arun Natarajan submits that a report has since been filed.

3. Inspection report is placed before this Court.

List tomorrow i.e., 28.10.2021.'

Proceedings on 28.10.2021:

'Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 27.10.2021.

2. A short accommodation is requested citing difficulty for Mr.Father Xavier, learned Senior counsel, who is leading the counsel on record for writ petitioner. Request acceded to.

List on 01.11.2021 (Monday).'

3. Pursuant to the aforementioned earlier proceedings, an inspection has been carried out, a report dated 30.09.2021 has been filed, paragraph Nos.1, 2, 4 of this report are most relevant for disposal of captioned matter and the same read as follows:

'1. It is feasible to effect new water and sewer connection to the petitioner's college premises from the existing 150 mm Dia DI water main and from the existing 250 mm Dia Gravity Sewer Main



at Canal Bank Road, Gandhi Nagar, Adyar, Chennai-20 respectively.

2. It is submitted that if the petitioner apply for new water and sewer connection after payment of Water and sewer tax, water connection charges, sewer connection charges and Infrastructure Development charges with NOC from GCC/CMDA as per the Rules and Regulations of the CMWSS Board.

4. It is submitted that the half yearly water and sewerage tax computed based on the Annual Value Rs.11,90,222/- is Rs.41,658/- per half year. The total water and sewerage tax amount to be payable to the Board from 2/2017-18 to 1/2021-22 is Rs.4,10,332/- including surcharge as per provisions of the CMWSS Act, 1978.'

4. Learned Senior Advocate appearing on behalf of counsel on record for writ petitioner draws the attention of this Court to sub-Section (3) of Section 34 of The Chennai Metropolitan Water Supply and Sewerage Act, 1978 (Tamil Nadu Act 28 of 1978) and submits that Government can exempt and the CMWSSB can remit a portion of taxes up to one half in certain cases and circumstances. Learned Senior Advocate for writ petitioner, on instructions, advertng to paragraph 4 of the aforementioned report submits that the writ petitioner though entitled to one half slash will pay one half of the demand now, will apply for new water/sewerage connection and pay the balance one half also on completion of work qua new water and sewerage connection, owing to the fair approach of the State in setting out the feasibility of providing water/sewerage connection to an institution where nearly 4,000 students are pursuing their education. Considering the nature of writ petitioner institution, considering that four thousand students are studying in the institution, this request is acceded to.

5. In the light of aforementioned report, paragraph Nos.1, 2 and 4 thereat, this Court deems it appropriate to suo-moto implede the State of Tamil Nadu, represented by Secretary Municipal Administration and Water Supply Department, Secretariat Fort St. George, Chennai - 600 009 as fourth respondent in captioned main writ petition and captioned writ miscellaneous petitions thereat. Registry to carryout necessary/consequential amendments in the case file and ensure that the same are incorporated in the order before it is uploaded, furnished/sent to parties.

6. In the light of the narrative thus far, captioned writ petition is disposed of by making the following order:

(a) Writ petitioner shall apply for new water and sewerage connection within a fortnight from today i.e., on or before 15.11.2021 by paying one half of demand i.e., demand that is subject matter



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of captioned writ petition along with the application;

(b) Writ petitioner shall pay all charges for new construction and new connection i.e., water and sewerage connection, as required/demanded by the respondents;

(c) The respondents shall act on the aforementioned application, commence the process for giving new water and sewerage connection as stated out in paragraph No. 1 of the report and conclude the process as expeditiously as possible but in any event within three months from 15.11.2021 i.e., on or before 15.02.2022;

(d) Writ petitioner shall pay the balance amount 50% within another fortnight therefrom i.e., on or before 30.01.2022;

7. This Court as a concluding remark places on record its appreciation for the fair approach taken by the State i.e., respondents in filing a report clearly setting out the ground situation that it is feasible to give communication and the learned State counsel for being fair to the Court and the writ petitioner institution (without taking a wooden approach).

8. Captioned writ petition is disposed of with the above directives. Consequently connected writ miscellaneous petitions are also disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

nst/nsa

To

1. The Managing Director
The Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road
Chindathripet
Chennai - 600 002.

2. Managing Director
Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road
Chindathripet
Chennai - 600 002.



3. Deputy Area Engineer - 40
Area XIII/CMWSSB
No.24, Bakthavatchalam Nagar
5th Cross Street,
Adyar, Chennai - 600 020.

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

+2ccs to M/s.Father Xavier Associates, Advocate SR.No.57088

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&
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NR(CO)
GMY(07/12/2021)