IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P.Nos.19235 & 19248 of 2021
and
W.M.P.Nos.20538 & 20563 of 2021

Nalanda Matric Higher Secondary School,
Rep. by its Principal,
Periyamottur,
Kanagamuttlu (PO),
Krishnagiri - 635 001.
... Petitioner in W.P.No.19235 of 2020

Nalanda International Public School,
Rep. By its Principal,
Periyamottur,
Kanagamuttlu(PO),
Salem Bye Pass Road,
Krishnagiri - 635 001.
....Petitioner in W.P.No.19248 of 2020

-Vs.-

1. The District Collector/ Inspector of Panchayat,
   Krishnagiri District,
   Krishnagiri - 635 001.

2. The Assistant Director, Panchayats,
   Krishnagiri.

3. The President,
   Agasipalli Panchayat,
   Krishnagiri Panchayat Union,
   Krishnagiri District.
.. Respondents in both W.Ps

Prayer in both Wps:

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the entire records of the 3rd respondent's impugned property tax proceedings dated 14.10.2020 and 21.06.2021 issued to the petitioner School and quash the same.

For Petitioner in both WPs : Mr.K.A.Ravindran
For Respondents
in WP No.19235 of 2021 : Mr.NRR.Arun Natarajan, Government Advocate.
For Respondents
in WP No.19248 of 2021 : Ms.Amirta Dinakaran Government Advocate.

COMMON ORDER

This common order will dispose of the captioned two writ petitions and two writ miscellaneous petition therein.

2. Two separate proceedings made in the two captioned writ petitions in the previous listing on 13.09.2021 read as follows:

Proceedings dated 13.09.2021 in W.P.No.19235 of 2021:

'Captioned writ petition pertains to increase of rate of existing house tax qua writ petitioner (school) situate in a Village Panchayat.

2. A communication dated 14.10.2020 bearing no reference sent in a political party letter pad by the President of the Village Panchayat concerned (third respondent) vide which the writ petitioner has been intimated that House Tax has been enhanced and called upon to pay the emhanced tax is assailed in captioned writ petition.

3. Mr.K.A.Ravindran, learned counsel for writ petitioner submits that impugned notice cannot stand a moment's scrutiny as the procedure, parameters and principles adumbrated in the 'Tamil Nadu Village Panchayat (Assessment and Collection of taxes) Rules, 1999' (hereinafter 'said Rules' for the sake of convenience) have not been followed.

4. Adverting to paragraph 6 of the writ affidavit, learned counsel submits that impugned communication appears to be on the basis of a resolution, but the writ petitioner is not even aware of the resolution and the writ petitioner has not been favoured with a copy of the same. It is learned counsel's emphatic say that the said Rules has been given a complete go by, more particularly Rules 7(4), 10 and 11 besides several other

provisions therein.

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

6.Short point is whether said Rules were followed. A careful perusal of the said Rules makes it clear that it has been made inter alia under Sections 171 and 172 of the 'Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Panchayats Act 21 of 1994)' (hereinafter 'said Act' for the sake of convenience), which deal with taxes leviable by Village Panchayat and House Tax. To be noted, 'Village Panchayat' is defined under Section 2(37) read with Section 6(1) of said Act.

7. Be that as it may, learned State counsel submits that there is a Full Bench judgment regarding levy of House Tax under said Act qua Educational Institutions situate in Village Panchayats and that there is a judgment of another Hon'ble single Judge on NJP (Natural Justice principles) in such situations. Learned State counsel to circulate the same in the next listing.

8. Registry to show the name of State counsel for all the three respondents in the next listing.

List in the Motion List on 17.09.2021.'

Proceedings dated 13.09.2021 in W.P.No.19248 of 2021:

'Captioned writ petition pertains to increase of rate of existing house tax qua writ petitioner (school) situate in a Village Panchayat.

2. A communication dated 14.10.2020 bearing no reference sent in a political party letter pad by the President of the Village Panchayat concerned (third respondent) vide which the writ petitioner has been intimated that House Tax has been enhanced {also called upon to pay the emhanced tax} is assailed in captioned writ petition.

3. Mr.K.A.Ravindran, learned counsel for writ petitioner submits that impugned notice cannot stand a moment's scrutiny as the procedure, parameters and principles adumbrated in the 'Tamil Nadu Village Panchayat (Assessment and Collection of taxes) Rules, 1999' (hereinafter 'said Rules' for the sake

of convenience) have not been followed.

4. Adverting to paragraph 6 of the writ affidavit, learned counsel submits that impugned communication appears to be on the basis of a resolution, but the writ petitioner has not been favoured with a copy of the same and writ petitioner is not even aware of the resolution. It is learned counsel's emphatic say that the said Rules has been given a complete go by, more particularly Rules 7 (4), 10 and 11 besides several other provisions therein.

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

6.Short point is whether said Rules were followed. A careful perusal of said Rules makes it clear that it has been made inter alia under Sections 171 and 172 of the 'Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Panchayats Act 21 of 1994)' (hereinafter 'said Act' for the sake of convenience), which deal with taxes leviable by Village Panchayat and House Tax.

7.To be noted, 'Village Panchayat' is defined under Section 2(37) read with Section 6(1) of said Act. This is recorded as impugned communication is in a political party's letter pad and it has been signed by the President of the Village Panchayat.

8. Be that as it may, learned State counsel submits that there is a Full Bench judgment regarding levy of House Tax under said Act qua Educational Institutions situate in Village Panchayats and that there is a judgment of another Hon'ble single Judge on NJP (Natural Justice principles) in such situations. Learned State counsel to circulate the same in the next listing.

9. Registry to show the name of State counsel for all the three respondents in the next listing.

List in the Motion List on 17.09.2021.'

3. Today, on written instructions, learned counsel for three respondents in both the writ petitions submitted that writ petitioner has not been put on prior notice i.e., any notice prior to the impugned house tax proceedings.

4. With the consent of learned counsel on both sides, main writ petitions are taken up and this order has to be read in conjunction with and in continuation of previous proceedings as it captures the crux and gravamen of the whole lis in a nutshell.

5. In the light of the stated position of third respondent that no prior notice was given to the writ petitioner i.e., prior to impugned house tax proceedings, it follows as a sequitur that the said Rules have not been followed. To be noted, short forms used in the previous proceedings continue to be used in this proceedings also. The impugned house tax proceedings are set aside solely on the ground that the said Rules have not been followed.

6. The following order is passed:

(a) Impugned house tax proceedings dated 14.10.2020 and 21.06.2021 are set aside solely on the ground that the Tamil Nadu Village Panchayat (Assessment and Collection of Taxes) Rules, 1999 have not been followed;

(b) As the impugned house tax proceedings are set aside on the ground of procedure not being followed, it is made clear that no opinion or view has been expressed by this Court on the merits of the matter;

(c) The respondent shall redo the house tax revision by following the procedure laid down in the Tamil Nadu Village Panchayat (Assessment and Collection of Taxes) Rules, 1999 and complete the exercise as expeditiously as possible and in any event, within twelve weeks from today i.e., on or before 10.12.2021. To be noted, the writ petitioner undertakes to cooperate with the respondent local body in this exercise;

(d) Till the completion of the above exercise, the writ petitioner shall continue to pay house tax at the existing rate i.e., rate prior to the impugned house tax proceedings and in the event of any default or delay in the same, consequences in law will follow;

(e) Though obvious it is made clear that post de novo exercise, if any further appeal or revision are available to writ petitioner, this order will not come in the way and Statute and Rules would apply;

7. 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

//True Copy//

Sub Assistant Registrar

mk/nsa

To

1. The District Collector/ Inspector of Panchayat,
   Krishnagiri District,
   Krishnagiri - 635 001.

2. The Assistant Director, Panchayats,
   Krishnagiri.

3. The President,
   Agasipalli Panchayat,
   Krishnagiri Panchayat Union,
   Krishnagiri District.

+2cc to Ms.Amirta Dinakaran, Advocate, S.R.No.47468
+2cc to the Government Pleader, S.R.No.47875,47876

W.P.Nos.19235 and 19248 of 2021

SV-I(CO)
CT/29/09/2021