



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P.No.20998 of 2021

and

W.M.P.Nos.22253 and 22255 of 2021

New Prince Matriculation Higher Secondary School
Represented by its Correspondent
Mr.K.Logan @ Loganathan
No.45 Sabapathi Street,
Ullagaram, Chennai 600 091.

...Petitioner

-Vs.-

1.The Government of Tamilnadu,
Rep.by The Secretary
Department of Municipal
Administration and Water Supply
Fort.St George, Secretariat, Chennai - 9.

2.The Commissioner
Greater Chennai Corporation,
Rippon Building, Chennai-600 003.

3.The Assistant Revenue Officer
Greater Chennai Corporation
Zone-14, No.6/64, Puzudhivakkam Main Road
Ullagaram Puzudhivakkam, Chennai-600 091.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for records pertaining to the impugned resolution of the 2nd respondent dated 10.04.2018 in resolution No.292 of 2018 on the file of the 2nd respondent herein and quash the same as illegal.

For Petitioner : Mr.P.Muthusamy

For Respondent : Mr.NRR.Arun Natarajan
Government Advocate for R1

Ms.S.Vaitheeswari,
Standing counsel for Chennai
Corporation for R2 & R3



O R D E R

Mr.P.Muthusamy, learned counsel for writ petitioner is before this Virtual Court.

2. A resolution made by 'Chennai Corporation' [hereinafter 'MC' for the sake of convenience and clarity] being resolution No. 292 of 2018 dated 10.04.2018 resolving to levy surcharge (nky; thp) qua Educational institutions with the exception of those which are exempted under Section 101(c) of 'Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919)' which was earlier known as 'Madras City Municipal Act, 1919' and therefore shall hereinafter be referred to as 'MCMC Act' for the sake of convenience and clarity has been called in question.

3. In the case on hand, post aforementioned impugned resolution, writ petitioner has been visited with a demand notice dated 13.09.2021 and according to the learned counsel for writ petitioner this demand notice demands property tax and surcharge, but the break up is not available before this Court and demand notice has not been assailed.

4. Learned counsel submitted that this Court in a batch of writ petitions being WP.Nos.17544 to 17548 of 2018, etc., assessment orders inclusive of surcharge have been assailed and limited stay which is confined to demand of surcharge alone has been issued (making it clear that property tax has to be paid) and the same is operating.

5. However, in the instant case, only the resolution of MC levying surcharge has been assailed. The demand or assessment inclusive of surcharge has not been assailed as has been done in the aforementioned batch of writ petitions.

6. Faced with the above situation, learned counsel sought permission to withdraw the captioned writ petition, but made a fervent plea to preserve the rights of writ petitioner to take out a fresh writ petition with suitable prayer, assailing the impugned resolution as well as the demand or assessment as the case may be. Ideally writ petitioner should have been cautious while making averments in the writ affidavit and prayer in the captioned writ petition. However, considering the facts and circumstances of the case on hand, this request is acceded to.



7. Captioned Writ Petition is disposed of as withdrawn albeit preserving the rights of writ petitioner to take out a fresh writ petition in the aforesaid manner or with a suitable prayer. Consequently, connected miscellaneous petitions are also closed as withdrawn. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

mk/nsa

To

- 1.The Government of Tamilnadu,
Rep.by The Secretary
Department of Municipal
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+1cc to the Government Pleader, S.R.No.51296

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KV(CO)
SU(13/10/2021)