

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

Writ Petition No. 1955 of 2022

Akola Municipal Corporation,
Through its Commissioner,
Tq. Dist. Akola

.... Petitioner

.. Versus ..

(1) Deaf and Dumb Girls School, Akola
Run under the auspicious of District
Council for Child Welfare, Akola.
Through Head Mistress, Sushma S.
Gotarkar.
Aged about 52 years, Occ. Service.
R/o. Malkapur, Akola.
Tq. Dist. Akola.

(2) Basant Agro Tech (I) Ltd.
Through Its Authorized Signatory
Rajendra Sukhdevrao Tayde.
Aged about 55 years, Occ. Service.
R/o. Mahsul Colony, Akola.
Tq. Dist. Akola.

(3) State of Maharashtra.
Through Its Commissioner,
Tq. Dist. Akola

(4) District Collector, Akola.
Collectorate Compound, Dist. Akola.

.... Respondents

Mr. A. H. Mishra, Advocate for the petitioner
Mr. D. R. Khapre, Advocate for respondents 1 and 2
Ms. T. H. Khan, AGP for the State/respondents 3 and 4

CORAM : ROHIT B. DEO, J.

DATED : 22-4-2022

ORAL JUDGMENT

Rule. Rule made returnable forthwith. Heard finally with consent of the learned counsel appearing for the parties.

2. The Akola Municipal Corporation is the defendant in Regular Civil Suit 147/2020 in which respondents 1 and 2 have sought declaration that the action of the Corporation of imposing property tax on the buildings of the trust is contrary to the provisions of the Maharashtra Municipal Corporation Act since the property is exempted from assessment of taxes.

3. The Corporation sought rejection of the plaint, which application came to be dismissed on 28-9-2021. It was after the dismissal of the application under Order VII Rule 11 of the Code of Civil Procedure (Code) that the Corporation sought to file the written statement and prayed for such permission. The learned trial Judge has rejected the application for permission to file written statement vide order dated 10-12-2021. The learned trial Judge, reproduced the provisions of Order VIII Rule 1 of the Code and then observed that the Corporation failed to file the application within the specified period of time. The learned trial Judge has not appreciated that the provision and the time limit stipulated

is directory. The order impugned is unreasoned in the sense that the only ground of rejection is that the application is preferred after the time limit prescribed.

4. Be that as it may, considering that serious and important issues are involved, I am inclined to allow the application (Exhibit 25) and permit the Akola Municipal Corporation to defend the suit subject to payment of costs of Rs. 500/- (Rupees Five Hundred).

5. The order impugned is set aside.

6. The application, Exhibit 25 is allowed subject to payment of costs of Rs. 500/- (Rupees Five Hundred).

7. The learned trial Judge is requested to expedite the suit.

8. The petition is disposed of in the aforestated terms.

JUDGE

wasnik