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

**WRIT PETITION NO.4383 OF 2021**

Jyoti Shikshan Prasarak Mandal, Akola
Through its Secretary
Prashant Uttamrao Janolkar,
Add-Kapilvastu Nagar, Behind Vijay
Colony, Gaorakshan Road,
Tah. & Dist. Akola … Petitioner

-vs-

1. State of Maharashtra, Through its Secretary,
   Urban Development Department, Mantralaya, Mumbai-32

2. The Akola Municipal Corporation,
   Through its Commissioner, Akola
   Tah. Dist. Akola … Respondents

**WITH**
**WRIT PETITION NO.4401 OF 2021**

Shri Saraswati Education Society,
Akola, Through its Secretary
Mr Sachin Keshav Joshi,
Add-“ Ishkrupa”, 27, Keshav Nagar, Akola
Tah. & Dist. Akola … Petitioner

-vs-

1. State of Maharashtra, Through its Secretary,
   Urban Development Department, Mantralaya, Mumbai-32

2. The Akola Municipal Corporation,
   Through, its Commissioner, Akola
   Tah. Dist. Akola … Respondents

**WITH**
**WRIT PETITION NO.4425 OF 2021**

1. Ladies Home Class Society, Akola
   Through its Secretary
   Mrs Vidula Anniruddha Chaudhary
   Add- Ramdaspeth, Near Government
   B.Ed College, Akola

Tah. & Dist. Akola

2. Manutai Kanya Shala, Akola,
Through its Head Mistress,
Mrs Aishwarya Ajay Dharaskar,
R/o Gajananpeth, Raut wadi, Akola … Petitioners

-vs-

1. State of Maharashtra, Through its Secretary,
Urban Development Department, Mantralaya, Mumbai-32

2. The Akola Municipal Corporation,
Through, its Commissioner, Akola
Tah. Dist. Akola … Respondents

**WITH**
**WRIT PETITION NO.4443 OF 2021**

1. Akola Education Society,
Through its Secretary
Shrikrishna Rajaram Amravatikar,
Add-New Bhagat Plots,
Tah. & Dist. Akola

2. New English High School
And Junior College, Akola,
Through Its Head Master,
Mr Madhav Sudhakar Munshi,
R/o Birla Colony, Akola

3. G. D. Platinum Jubilee
English School, Kharap, Bq.,
Akola, Through its Head Mistress,
Mrs Madhura Suryakant Bhartiya,
R/o Jatharpeth, Prasad Colony, Akola … Petitioners

-vs-

1. State of Maharashtra, Through its Secretary,
Urban Development Department, Mantralaya, Mumbai-32

2. The Akola Municipal Corporation,
Through its Commissioner, Akola
Tah. Dist. Akola … Respondents

**WITH**
**WRIT PETITION NO.4750 OF 2021**

1. Savitribai Fule Shikshan Prasarak Mandal,
   Paras, Through, its Secretary
   Mr Dhananjay Baliram Shiraskar,
   Add- Pola Chowk, Paras,
   Tq. Balapur, Dist. Akola

2. Dr Sushilabai Deshmukh Secondary and
   Higher Secondary School, Mothi Umari,
   Akola, Through its Principal,
   Anil Vasantrao Masne, R/o Uttara Colony,
   Lahan Umari, Akola

3. Sant Gajanan Baba Primary School, Akola,
   Through Its Principal, Mrs Saroj Anant Shegokar,
   R/o Mothi Umari, Akola … Petitioners

-vs-

1. State of Maharashtra, Through its Secretary,
   Urban Development Department, Mantralaya, Mumbai-32

2. The Akola Municipal Corporation,
   Through, its Commissioner, Akola
   Tah. Dist. Akola … Respondents

Shri A. R. Deshpande, Advocate for petitioners.
Shri D. P. Thakare, Additional Government Pleader for respondent No.1.
Shri S. S. Sohoni, Advocate for respondent No.2.

**CORAM : A. S. CHANDURKAR AND M. W. CHANDWANI, JJ.**
**DATE : October 17, 2022**

Common Judgment (Per : A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

Since similar issues are raised in these writ petitions, they are being decided by this common judgment.

2. Each petitioner is a charitable Trust which claims that in view of provisions of Section 132(1)(b) of the Maharashtra Municipal Corporation Act, 1949 (for short, the Act of 1949) it is exempted from paying general taxes. To substantiate this claim reliance is placed on the judgment of the Honourable Supreme Court in *Municipal Corporation of Delhi vs. Children Book Trust* ***(1992) 3 SCC 390*** to urge that since each Trust is running educational institutions that are imparting education, each Trust is not liable to pay general tax.

3. The Municipal Corporation has issued demand notices to each petitioner seeking payment of various taxes including general tax. Each petitioner has raised objection to the demand of such tax by relying upon the provisions of Section 132(1)(b) of the Act of 1949. The grievance of the petitioners is that notwithstanding such objection being raised, the demand is being pursued and the property of the Trusts is being attached. Hence these writ petitions have been preferred.

4. After hearing the learned counsel for the parties we find that the judgment in *Children Education Trust* (supra) has been considered by the Division Bench of this Court in Writ Petition

No.927/2018 *(Shambhu Educations Society, Patur, Dist. Akola vs. State of Maharashtra, Thr. Secretary, Urban Development Dept. Mumbai and anr.)* decided on 16/08/2019 wherein while observing that the Municipal Corporation ought to treat the activity of imparting education as a public charitable activity for the purposes of exemption of tax, it was observed that the Municipal Corporation hwould be entitled to analyse the balance-sheets and bye-laws of the Trust in the light of the aforesaid decision of the Honourable Supreme Court.

5. It is seen that in each writ petition the Trust had submitted its reply to the demand notice after which the Municipal Corporation had sought to attach the Trust's property. We find that before enforcing the demand for general tax, it would be necessary for the Municipal Corporation to analyse the balance-sheets and bye-laws of each Trust in question in the light of the law laid down by the Honourable Supreme Court in *Children Book Trust* (supra).

6. In that view of the matter, the following directions would serve the interest of justice :

(i) The demand of general tax as made from each petitioner-Trust shall not be enforced until the Municipal Corporation considers the representation/reply submitted by the petitioners-Trust based on the judgment in *Children Book Trust* (supra) to determine the liability of each Trust to pay general tax.

(ii) The Municipal Corporation is free to issue fresh show cause notice to each Trust demanding general tax and grant an opportunity to the Trust to put forth its stand in accordance with law. After considering all relevant documents including balance-sheets and bye-laws of the Trust, the Municipal Corporation would be free to take a decision with regard to the liability of the public Trusts to pay general tax. To that extent, the impugned demand notice issued to each petitioner-Trust demanding general tax shall not be enforced till such decision is taken by the Municipal Corporation.

(iii) The petitioners are free to respond to the show cause notice, if issued by the Municipal Corporation by filing additional reply if necessary.

(iv) It is clarified that insofar as demand of other taxes is concerned, it is open for the Municipal Corporation to enforce such demand and the petitioners would be free to avail the statutory remedy provided under the Act of 1949 if they are aggrieved by such demand.

(v) The entire exercise be completed within a period of three months from today on its own merits and in accordance with law.

With these directions the writ petitions are disposed of.

No costs.



**(M. W. Chandwani, J.)** **(A. S. Chandurkar, J.)**

Asmita