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W.P.No.489 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23/11/2022

C O R A M

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

Writ Petition No.489 of 2015

a n d

M.P.No.1 of 2015

Kaavia Garden Residents Welfare Association

rep. By its President

Mr.Y.Hollis Sam (Y.H.Sam)

Having its Registered Office at

No.7 Arunagiri Street

Phase IV, Kaavia Garden, Porur

Chennai 600 116.

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Petitioner

Vs

1. Chennai Metro Water Supply and

Sewerage Board

rep. By its Managing Director

1 Pumping Station Road, Chintadripet

Chennai 600 002.

2. The Controller of Finance

Finance Department

Chennai Metro Water Supply and

Sewerage Board

1 Pumping Station Road, Chintadripet

Chennai 600 002.

3. The Area Engineer XI

Chennai Metro Water Supply

1 Pumping Station Road, Chintadripet

Chennai 600 002.

...

Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified mandamus to call for the records on the file of the third respondent with reference to the impugned demand dated 22/12/2014 issued to the petitioner Association fixing the monthly water charges for domestic connection at Rs.150/- for Porur Town Panchayat area and quash the same and consequently, direct the respondents to levy monthly water charges at Rs.50/- from the members of the petitioner Association as in the case of other consumers of the respondents.

For Petitioner ... Mr.A.Palaniappan

For Respondents ... Mr.N.Paul Sunder Singh
Standing Counsel

ORDER

This writ petition has been filed to quash the impugned demand dated 22/12/2014 passed by the third respondent and consequently, direct the respondents to levy monthly water charges at Rs.50/- from the members of the petitioner Association as in the case of other consumers of the respondents.

2. It is the case of the writ petitioner that the petitioner Association



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fell within the limit of Porur Town Panchayat. It is merged with Chennai Corporation as Ward No.153. On the basis of the Circular, dated 22/12/2014, third respondent had issued water charges for domestic purposes at the rate of Rs.150/- per month, which is 3 times the amount fixed by the Board in respect of other areas.

3. The main grievance of the petitioner is that AGS Colony, Shanthi Nagar, situated in Moulivakkam which is immediately adjacent to the petitioner Association, in respect of domestic connections, water charges were fixed at Rs.50/-. Hence, the petitioner Association has come forward with the instant writ petition praying for the relief as stated therein.

4. Heard Mr.A.Palaniappan, learned counsel for the petitioner and Mr.N.Paul Sunder Singh, learned Standing counsel for the respondents.

5. The main contention of the petitioner association is that the Corporation, after merger of Porur Town Panchayat is collecting the water sewage charges at the rate of Rs.150/- per month fixed by the erstwhile Town Panchayat. Whereas, in the other areas, Corporation is collecting a



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uniform rate of Rs.50/- per month. Therefore, seeks to quash the demand.

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6. The learned Standing Counsel appearing for the respondents submitted that 42 Urban Local Bodies were merged with Chennai Municipal Corporation vide G.O.(Ms).No. 97 dt. 19.07.2011 with effect from 01.10.201. The local bodies merged with Chennai Metropolitan Area had different tariff and water/sewer charges. Porur Town Panchayat prior to merger had resolved to collect Rs.150/- per month towards water supply charges vide then Local & Municipal Notification No.5, dated 01.07.2008. The Tamil Nadu Government vide its Gazette Notification No.51 dated 23.02.2012 has notified as follows:-

“ Provided that all taxes, fees and duties in respect of water supply and sewage services as levied by the local authority concerned before the date of the such extension shall be deemed to have been levied by the Board under the provision of the Act and shall continue to be in force accordingly, until such taxes, fees and duties are revised, cancelled or



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suspended by anything done on any action
taken under this Act.”

7. The learned Standing counsel appearing for the respondents submitted that the respondent Board is collecting Rs.150/- per month towards water supply charges as resolved by the erstwhile Porur Town Panchayat. Sec.44 of CMWSS Act, 1978 (in short 'Act') empower CMWSS Board to levy water supply charges at different rate for different areas.

8. He would further submit that as per Sec.44 of the Act empowers the Corporation to collect such amount besides there is Government Order also notified to the effect that amount resolved by the erstwhile Town Panchayat shall continue to be received. Therefore, it is the contention that even now, the same amount has been paid . There is no revision made by the Corporation. Hence, he submits that Writ Petition be dismissed.

9. I have perused the materials available on record.



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10. Vide, G.O.(Ms).No.97, dated 19.07.2011, 42 Urban Local

Bodies were merged with Chennai Municipal Corporation with effect from 01.10.2011. Gazette Notification also issued to the effect that all the taxes, fees and duties in respect of water supply and sewage services as levied by the local authority concerned before the date of such extension shall be deemed to have been levied by the Board under the provision of the Act and shall continue to be in force. Besides, Sec.44 of the Act also empowers the Board to levy water supply charges at different rate for different areas.

11. There is a Gazette Notification even at the time of merger to continue to receive the charges fixed by the erstwhile Town Panchayat and the same remain in force till it is revised. The date of merger is of the year 2011. Even now, the said amount is continuing and no revision whatsoever is taken place, after passage of more than 11 years. Therefore, this Court is of the view that when the Gazette notification permits the Corporation to receive the amount and Sec.44 also empowers to fix the different rate, the writ petitioner cannot challenge the same.

12. In such a view of the matter, this writ petition is dismissed. No



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costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No

mvs.



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N.SATHISH KUMAR,J

mvs.

To

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Chennai Metro Water Supply and Sewerage Board
1 Pumping Station Road, Chintadripet
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2. The Controller of Finance
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