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W.P.No.34557 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.34557 of 2014

&

M.P.Nos.1 and 2 of 2014

Sriram Nagar Kudiyirupor Pothu Nala
Sangam-Porur
rep by its President
Mr.R.Kesavan

... Petitioner

Vs.

1. The Managing Director
Chennai Metropolitan Water Supply
and Sewerage Board
No.1 Pumping Station Road
Chintadripet, Chennai-600 002

2. The Area engineer- XI
Chennai Metropolitan Water Supply
and Sewerage Board
Chintadripet, Chennai-600 002

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records pertaining to the demand notice issued by the second respondent dated 20.08.2014 pertaining to Area XI of Porur Water Supply charges and quash the same and consequentially direct the respondents to adopt the water



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charges uniformly levy for other areas of Chennai Corporation to the Porur, Sri Ram Nagar, Porur, Chennai-600 116.

For Petitioner : MR.K.M.Subramaniam

For Respondents : Mr.Jerry V.V.Sundar, Standing Counsel

ORDER

Writ Petition has been filed seeking to call for the records pertaining to the demand notice issued by the second respondent dated 20.08.2014 pertaining to Area XI of Porur Water Supply charges and quash the same and consequentially direct the respondents to adopt the water charges uniformly levy for other areas of Chennai Corporation to the Porur, Sri Ram Nagar, Porur, Chennai-600 116.

2. It is the case of the Writ petitioner that the petitioner's association originally fell within the limit of Porur Town Panchayat. Now it is merged with Chennai Corporation as Ward No.153. Now the 2nd respondent issued water charges for domestic purposes at the rate of Rs.150/- per month. This amount has been arrived and fixed on the basis of circular No.CMWSSB/O&M/Porur Town Panchayat/ 2012 dated 21.06.2012 and old circular was maintained by the erst while Town Panchayat of Porur, before



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the merging of Porur with Chennai Corporation. Hence, it is the contention that the Chennai Corporation is charging uniform rate of Rs.50/- per month for all other areas connected to the Corporation limit. But the respondents are insisting the petitioner basing the circular No.CMWSSB/O&M/Porur Town Panchayat 2012 dated 21.06.2012, which is illegal, hence sought to quash the same.

3. Whereas it is the contention of the respondents 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 different local bodies merged with Chennai Metropolitan Area had different tariff and water/sewer charges. The 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



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

4. Accordingly, 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. Therefore, seeks to dismiss the Writ Petition.

5. Heard the learned counsel for the petitioner.

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



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

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7. I have perused the counter affidavit, whereas it is the contention of the Standing counsel 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.

8. I have perused the entire materials.

9. The 42 Urban Local Bodies were merged with the Chennai Municipal Corporation vide G.O.(Ms).No.97 dated 19.07.2011 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 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



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duties are revised, cancelled or suspended by anything done on any action taken under this Act. Besides Sec.44 of the Act also empowers Board to levy water supply charges at different rate for different areas.

10. When 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 01.10.2011, even now the said amount is continuing and no revision whatsoever is taken place even after passage of more than 11 years.

11. 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. Even now there is no revision, the same amount of Rs.150/- is collected.

12. In such view of the matter, I do not find any merits in the matter.



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Writ Petition is dismissed. No costs. Consequently, connected

miscellaneous petitions are closed.

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