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W.P.Nos.27899 & 34823 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

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THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.27899 & 34823 of 2014

and

W.M.P.Nos.1 & 2 and 1 & 2 of 2014

1.Lakshmi Nagar Residents Welfare Association,  
Porur,  
Represented by its Secretary, Mr.Mangavu,  
Plot No.112, Door No.13, 12<sup>th</sup> Cross Street,  
Lakshmi Nagar, Porur,  
Chennai – 600 116. ... Petitioner in W.P.No.27899 of 2014

2.Poothapedu Peoples Welfare Association,  
Represented by its Secretary,  
Mr.M.Gopalakrishnan,  
Door No.13 A, Perumal Koil Street,  
Poothapedu, Porur,  
Chennai – 600 089. ... Petitioner in W.P.No.34829 of 2014

Vs.

1.Chennai Metro Water Supply and Sewerage Board,  
Represented by its Managing Director,  
1, Pumping Station Road,  
Chintadiripet, Chennai – 600 002.



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2. The Controller of Finance,

Finance Department,

Chennai Metro Water Supply and Sewerage Board,

1, Pumping Station Road,

Chintadiripet, Chennai – 600 002.

3. The Area Engineer XI,

Chennai Metro Water Supply,

1, Pumping Station Road,

Chintadiripet, Chennai – 600 002.

... Respondents in both W.Ps.

Prayer in W.P.No.27899 of 2014: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 2<sup>nd</sup> respondent with reference to the impugned proceedings dated 10.09.2014 and to quash the same as illegal, unjust and arbitrary and to direct the respondents to levy and collect water tax from the petitioners, namely, residents of Lakshmi Nagar situated at Lakshmi Nagar, Porur, Chennai – 600 116, bearing Ward No.151, in par with the tax levied on the other consumers of corporation of Madras.

Prayer in W.P.No.34829 of 2014: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to consider the grievance of the petitioner as specified in their representation dated 19.12.2014 to collect water tax from the petitioners at the rate of Rs.50.00 per month at par as it is being collected from other consumers of Corporation of Madras.



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For Petitioners : Mr.P.Vasanth  
(in both W.Ps)

For Respondents : Mr.M.Vijayakumar  
(in both W.Ps) Standing Counsel

### **COMMON ORDER**

By this common order, both these writ petitions are being disposed of.

2.W.P.No.27899 of 2014 Association has been filed for a writ of certiorarified mandamus to call for the records on the file of the 2<sup>nd</sup> respondent with reference to the impugned proceedings dated 10.09.2014 and to quash the same as illegal, unjust and arbitrary and to direct the respondents to levy and collect water tax from the petitioners, namely, residents of Lakshmi Nagar situated at Lakshmi Nagar, Porur, Chennai – 600 116, bearing Ward No.151, in par with the tax levied on the other consumers of Corporation of Madras.

3.W.P.No.34823 of 2014 has been filed for a mandamus to direct the respondents to consider the grievance of the petitioner as specified in their representation dated 19.12.2014 to collect water tax from the petitioner's at



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the rate of Rs.50.00 per month at par as it is being collected from other consumers of Corporation of Madras.

4.It is the specific case of the petitioner's Association that the property of the petitioner's came within the purview of the Chennai Corporation only from 2014 and prior to the aforesaid date the petitioner come within the purview of Porur Panchayat. It is submitted that the petitioner's property now falls within the purview of ward No.151. It is submitted that even in the neighboring areas coming under Ward No.156 in Virugambakkam Village, the respondents are collecting only Rs.50/- per month from each of the residents for water connection. It is submitted that there cannot be any discrimination between citizens, particularly, when no water connection was given by the erstwhile Porur Panchayat prior to 2014.

5.Opposing the prayers, the learned Standing Counsel for the respondents would relied on Gazette Notification amending Section 87 of the Chennai Metropolitan Water supply and sewerage Act, 1978. A specific reference is made to the proviso which reads as under:-



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“Provided that all taxes, fees and duties, in respect of water supply and sewerage 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 provisions of this Act and shall continue to be in force accordingly, until such taxes, fees and duties are revised, cancelled or superseded by anything done or any action taken under this Act.”

6.It is further submitted that water charges has been levied and the amount that was collected by the erstwhile Porur Panchayat and therefore, there is no merits in the arguments advanced by the learned counsel for the petitioners.

7.It is submitted that the petitioners have also not challenged the vires of the amendment dated 23.02.2012 to the aforesaid provisions by way of separate writ petition and therefore there is nothing irregular in the amount demanded from the petitioners towards water connection.

8.The learned counsel for the petitioners submits that it is the specific case of the petitioner that the water connection was given for the first time to the members of the petitioner's association only in the year 2014, as is evident



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from a reading of last sentence in para 2 of the affidavit filed in support of writ petition which reads as under:-

“The respondent has started supplying the water to the residents of Lakshmi Nagar situated at Lakshmi Nagar, Porur, Chennai – 600 116 in consumable state only since January 2014”.

9.It is submitted that in the counter filed by the respondents, the respondents have themselves admitted the averments made in para 2 of the affidavit filed in support of the present writ petition in W.P.No.27899 of 2014 and therefore the present writ petition deserves to be allowed.

10.The averment in para 2 of the affidavit filed in support of the present writ petition which has been extracted above clearly indicates that there was a supply even prior to 2014 and that the supply in consumable state begun only from January 2014. The petitioner has not filed any documents to substantiate that the members of the petitioner's association were assessed to water charges only for the first time during 2014. The respondents have also not given any documents to substantiate as the amounts that was being collected by the erstwhile Porur Panchayat.



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11.Considering the above, I am inclined to quash the impugned order dated 10.09.2014 and remit the case back to the respondents to pass a speaking order on the petitioner's representation afresh by justifying the applicability of proviso to Section 87 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978. This exercise shall be carried out by the respondents within a period of six weeks from the date of receipt of a copy of this order. The petitioner's Association is at liberty to file any additional documents that may be available with it to substantiate the case of its members. The enhancement and collection of water charges shall be fixed subject to the final outcome of the proceedings by the 1<sup>st</sup> and 2<sup>nd</sup> respondents which will be binding on its members.

12.Accordingly, these writ petitions stand disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

**15.06.2022**

Index : Yes/No  
Internet : Yes/No  
Speaking/Non-speaking Order  
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**C.SARAVANAN, J.**

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To

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Chintadiripet, Chennai – 600 002.

2.The Controller of Finance,  
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