BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).Nos.1017 of 2016 and 1139 of 2022
and
W.M.P(MD).Nos.840 of 2016 and 954 of 2022

W.P(MD).No.1017 of 2016

Ponmalar ITI.,
Silamalai,
Bodinaickanur Taluk,
Theni District,
Represented by its Correspondent/Secretary,
S.Suganya ... Petitioner

Vs.

The President,
Silamalai Panchayat,
Silamalai,
Bodinaickanur,
Theni District. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the proceedings, dated 30.06.2014 and proceedings, dated 17.11.2015 and Notice of Demand for House Tax, dated 14.12.2015 passed by the respondent and quash the same.

For Petitioner : Mr.DR.D.Gnanasekaran
For Respondent : Mr.P.Subbaraj
Special Government Pleader

W.P(MD).No.1139 of 2022

Ponmalar ITI.,
Silamalai,
Bodinaickanur Taluk,
Theni District,
Represented by its Correspondent/Secretary,
S.Suganya ... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Rural Development and Panchayat Raj Development,
Fort St.George,
Chennai-600 009.

2.The District Collector,
Theni District,
Theni.

3.The Assistant Director (Panchayats),
Office of District Collector,
Theni.

4.The Block Development Officer (Village Panchayats),
Panchayat Union Office,
Bodinayakanur,
Theni District.

5.The President,
Silamalai Village Panchayat Board,
Silamalai Village,
Bodinayakanur Taluk,
Theni District. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings, dated 20.12.2021 passed by the fifth respondent and quash the same as illegal and unconstitutional, and further direct the second respondent to review and verify the property tax assessment made by the fifth respondent in respect of the buildings of Ponmalar ITI, situated at Survey No.458/1B, Silamarathupatti, Silamalai Village Panchayat, in the light of the order, dated 18.08.2021, passed in W.P.No.25014/2016 in SSM College of Engineering Vs The Government of Tamil Nadu and another by the Hon'ble Madras High Court.

For Petitioner : Mr.DR.D.Gnanasekaran
For R1 to R4 : MrP.Subbaraj
Special Government Pleader
For R5 : Mr.G.Suriyananth

COMMON ORDER

W.P(MD).No.1017 of 2016 filed for a writ of Certiorari to quash the proceedings, dated 30.06.2014 and proceedings, dated 17.11.2015 and Notice of Demand for House Tax, dated 14.12.2015 passed by the respondent.

2. W.P.(MD).No.1139 of 2022 filed for a writ of Certiorarified Mandamus to quash the proceedings, dated 20.12.2021 passed by the fifth respondent and direct the second respondent to review and verify the property tax assessment made by the fifth respondent in respect of the buildings of Ponmalar ITI, situated at Survey No.458/1B, Silamarathupatti, Silamalai Village Panchayat, in the light of the order, dated 18.08.2021.

3. The contention of the petitioner is that the petitioner running an educational institutions, namely, Ponmalar Industrial Training Institue. He submits that he is exempted from the property tax. This Court, by order, dated 19.01.2016 directed the petitioner to pay 50% of the property tax within a period of two weeks from the date of receipt of copy of this order. Then the demand was for Rs.68,000/-. The petitioner is obedient to the order of this Court and paid 50% of the amount (Rs.34,000/-). The receipt was also produced.

4. He further submitted that now, the impugned demand made in the second writ petition is for the period 2013-2022, which includes the earlier demand period of 2012-2016. Hence, overlapping has been made. The petitioner submits that initially there are 120 students and now the patronage has come down, there are only 21 students. Soon, the institution could be closed. Further, the petitioner sent a representation, dated 25.12.2015 to the fifth respondent for seeking some relief.

5. The learned counsel for the fifth respondent submitted that the representation of the petitioner, dated 25.12.2015 will be considered.

6. The learned Special Government Pleader for the respondent in W.P.(MD).No.1017 of 2016 filed counter. He relied upon the following portions:

> "10. *It is humbly submitted that the petitioner himself has paid the house tax upto the year 2011-2012 and only when the tax is revised with reference to the buildings additionally constructed the petitioner seeks exemption from payment of the house tax claiming the building is in educational institution. It is pertinent to point here that there is no mention about the Ponmalar Industrial Training Institute as an educational institution in the deed of trust created.*
>
> *11. It is humbly submitted that there is a specific appliable provision under Section 172 of the Tamil Nadu Panchayat 1994, wherein a provision has been made to prefer a revision against the revision of the house tax and thereafter appeal provision is also there after exhausting revision provision. After revision of the house tax in respect of the*

petitioner's building the petitioner has neither preferred a revision petition and subsequent to appeal petition seeking relief against the assessment of house tax. The revision was made on 30.06.2014 by a demand notice and subsequently demand notice dated 17.11.2015 was issued but the petitioner has not exhausted the remedy by filing either revision petition and subsequent appeal petition. Therefore, the petition is not entitled for the relief sought for.

12. It is humbly submitted that in as much as the buildings of the petitioner is used for running Ponmalar Industrial Training Institute which is a Self Financing Educational Institution not entitled from assessment of the house tax. The relief sought for by the petitioner cannot be granted.

13. In any event the buildings of the petitioner is assessed to the house tax to the barest of Rs.10,000/- and Rs.1000/-+Rs.6000/- surcharge total Rs.17,000/- as against Rs.54,208/-, being 1% of the estimated value of Rs.54,20,800/-. Therefore, there is no reason on the part of the petitioner for being aggrieved. Under the facts and circumstances, the petition is not maintainable either on facts or under law and liable to be dismissed in limine."

7. Considering the limited plea made by the petitioner, the petitioner is directed to approach the fifth respondent and make his response. The fifth respondent is directed to consider the same and pass appropriate orders.

8. With the above directions, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

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To

1.The President,
Silamalai Panchayat,
Silamalai,
Bodinaickanur,
Theni District.

2.The Secretary,
The Government of Tamil Nadu,
Rural Development and Panchayat Raj Development,
Fort St.George,
Chennai-600 009.

3.The District Collector,
Theni District,
Theni.

4.The Assistant Director (Panchayats),
Office of District Collector,
Theni.

5.The Block Development Officer (Village Panchayats),
Panchayat Union Office,
Bodinayakanur,
Theni District.

+1 CC to M/s.DR..GNANASEKARAN, Advocate (SR-27973[F] dated 24/06/2022)

+ 1 cc TO Spl Government Pleader, in SR No. 28223

W.P(MD).Nos.1017 of 2016
and 1139 of 2022
24.06.2022

SS/06/07/2022/ 5P 8C