OD-5

ORDER SHEET
WPO No.1472 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

CHRISTIAN BURIAL BOARD
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:12th September, 2023.

Appearance:
Mr. Saptansu Basu, Sr. Adv.
Ms. Atulya Sinha, Adv.
...for Petitioner.

Mr. Alak Kumar Ghosh, Adv.
Mr. Gopal Chandra Das, Adv.
... for KMC.

The Court:-The order dated 08.09.2023 passed by the Assessor-Collector (TTD) upon hearing the representative of the Board is placed before this Court. It appears therefrom that though the premises no.184, Acharya Jagdish Chandra Bose Road, Kolkata-700017 is considered to be predominantly used as a public burial ground but on account of certain advertisements, hoardings and display of advertisement, the Corporation has subjected the petitioner to pay property tax.

Learned senior Counsel representing the petitioner submits, upon instruction that, the hearing was given without any proper notice but by way of telephone call. On receiving the telephone call the member of the Board rushed to attend the hearing and he was not ready with all documents in support of the stand of the burial ground.

It has been submitted that the burial ground runs from the payment collected from the members of the burial ground. The staff of the burial ground cannot be paid out of the funds collected from the members. No government grant is received by the petitioner. Only for the purpose of augmenting the fund for running the burial ground, the petitioner is compelled to let out a portion of the burial ground for setting up of advertisements. From the rents collected from the advertisers, the burial ground is being run.

Learned advocate representing the Corporation submits that no formal prayer seeking exemption of property tax has yet been submitted by the petitioner.

It appears that the aforesaid fact was not placed before the Assessor-Collector (TTD) at the time of hearing. The Assessor-Collector (TTD) has relied upon the relevant legal provision and passed order without being aware of the facts of the case.

It will be open for the petitioner to submit appropriate representation with supporting documents seeking exemption of property tax before the Assessor-Collector (TTD) within a fortnight from date. The Assessor-Collector (TTD) is directed to grant further opportunity of hearing to the petitioner upon prior notice and to take a decision as to whether the property may be subjected to property tax and, if at all, at which rate.

Let the decision be taken by the Assessor-Collector (TTD) at the earliest, but positively within a period of eight weeks from the date of receipt of the representation.

Assessor-Collector (TTD) shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

Till a fresh decision is taken by the Assessor-Collector (TTD), let no coercive step be taken against the petitioner.

Writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

nm