IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6535 OF 2022

Suffah Foundation's
Through its President
Mohd. Fazil Mohd. Abdul Razzaque,
Aged 59 years, Occ. Agriculturist and
Business, R/o. C/o. Suffah Foundation,
Momin Pura, Akola,
Tq. and Distt. Akola
... **Petitioner**

Versus

1. The Akola Municipal Corporation,
Through its Commissioner,
Tq. and Distt. Akola.

2. The Regional Officer,
North Zone Office, Akola Municipal
Corporation, Akola,
Tq. and Distt. Akola.

3. The State of Maharashtra,
Through its Secretary, Urban Development
Department, Mantralaya, Mumbai – 32

...**Respondents**

Mr. P.S. Gawai, Advocate for petitioner.
Mr.S.V. Sohoni, Advocate for respondent 1

CORAM: ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.

DATE : 18th APRIL, 2023

ORAL JUDGMENT : (Per: Rohit B. Deo, J.)

. The office note is that respondent 2 is not served.

However, the learned counsel Mr.S.V.Sohoni, waives notice for respondent 2.

(2) Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the respective parties.

(3) The petitioner claims to be a Public Trust and to be entitled to exemption from payment of the general property tax, in view of the provisions for Section 132(1)(b) of the Maharashtra Municipal Corporation Act. The exemption claimed is on the premise that the property of the public trust is used exclusively for charitable purpose. The petitioner is further assailing the demand notice dated 25.04.2022 issued by the Corporation.

(4) Perusal of the subsequent communication-cum-demand dated 04.10.2022, reveals that the respondent 2 has conveyed to the petitioner that since there is no provision for exemption in the statute, the petitioner will have to pay the property tax as demanded.

(5) It is common ground that similar issue is considered in the bunch of Writ Petitions decided by common judgment dated

17.10.2022 (Jyoti Shikshan Prasarak Mandal, Akola Vs. State of Maharashtra and anr. Writ Petition 4383 of 2021 and connected petitions). It is further common ground that the present petition can be disposed of in terms of the directions issued in the said judgment in paragraph 6.

(6) In this view of the matter, we allow the petition partly by issuing the following directions :

(i) The demand of general tax as made from petitioner – Trust shall not be enforced until the Municipal Corporation considers the representation/reply submitted by the petitioner-Trust based on the judgment in Children Book Trust (supra) to determine the liability of Petitioner Trust to pay general tax.

(ii) The Municipal Corporation is free to issue fresh show cause notice to Petitioner Trust demanding general tax and grant an opportunity to the Trust to put forth its stand in accordance with law. After considering all relevant documents including balance-sheets and bye-laws of the

Trust, the Municipal Corporation would be free to take a decision with regard to the liability of the public Trusts to pay general tax. To that extent, the impugned demand notice issued to petitioner-Trust demanding general tax shall not be enforced till such decision is taken by the Municipal Corporation.

(iii) The petitioner is free to respond to the show cause notice, if issued by the Municipal Corporation by filing additional reply if necessary.

(iv) It is clarified that insofar as demand of other taxes is concerned, it is open for the Municipal Corporation to enforce such demand and the petitioner would be free to avail the statutory remedy provided under the Act of 1949 if he is aggrieved by such demand.

(v) The entire exercise be completed within a period of three months from today on it's own merits and in accordance with law.

With these directions the writ petition is disposed of.

Rule accordingly. No costs.

[MRS. VRUSHALI V. JOSHI, J.] **[ROHIT B. DEO, J.]**

Kavita