IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.9061 of 2020 and
W.M.P.No.11032 of 2020

Rukmani Vidyalaya Higher Secondary
(Matriculation) School,
Rep. by its Correspondent S.Gurumoorthy,
No.153, Shanmugapuram, Thiruvottiyur,
Chennai – 600 019 ... Petitioner

Vs.

1. The Government of Tamil Nadu,
   Rep. by its Secretary,
   Municipal Administration and Water Supply Department,
   Fort St.George, Chennai – 600 009.

2. The Commissioner, Greater Chennai Corporation,
   Ripon Building, Chennai – 600 003.

3. The Revenue Officer, Greater Chennai Corporation,
   Zone No.01, Thiruvottiyur, Chennai – 600 019. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to resolution no 292/2018 dated 10.04.2018 passed by the 2nd respondent and consequential demand notice issued by the third respondent in Bill No.05242 dated 01-02-2020 and quash the same in so far as authorizing / demanding 60% of the property tax as surcharge to be collected from the building of the petitioner school where school is being run and direct the respondents not to demand or collect surcharge on property tax on the building of the petitioner school.

For Petitioner	:	Mr.P.Ebenezer Paul
For R1	:	Mr.P.Sathish, AGP
For R2 and R3	:	Mr.A.C.Manibharathi

ORDER

This writ petition has been filed seeking for issuance of a writ of certiorarified mandamus to quash the resolution No.292/2018 dated 10.04.2018 passed by the 2nd respondent and consequential demand notice issued by the third respondent in Bill No.05242 dated 01-02-2020.

2. It is the case of the petitioner that the petitioner / school is a recognised matriculation school with a strength of more than 672 students which is serving the cause of education to the poor and middle class section of the society. The first respondent, based on the resolution No.292/2018, passed by the second respondent, dated 10.04.2018, amended Section 101(c) of the Chennai City Municipal Corporation Act, 1919 w.e.f. 11.01.2018, bringing all the unaided schools under the purview of imposing surcharge at the rate of 60% of the property tax amount. Pursuant to the said resolution, the third respondent issued a demand notice dated 01.02.2020 to the petitioner school seeking to pay 60% towards surcharge, which has prompted the petitioner to knock on the

doors of this Court seeking justice by filing the present petition.

3. The learned counsel for the petitioner submits that the very same impugned resolution No.292/2018 dated 10.04.2018 passed by the second respondent was challenged before this Court in a batch of writ petitions in W.P.Nos.34104 of 2019 etc., batch and this Court vide order dated 20.06.2022, quashed the impugned resolution and allowed the writ petitions. Subsequent to the order dated 20.06.2022 passed by this Court, the very same corporation / second respondent herein has passed another resolution viz., Resolution No.126/2023 dated 11.02.2023, cancelling the 60% surcharge on the property tax levied on Government and all aided educational institutions. Therefore, he prayed that the similar relief may be granted to the petitioner herein also.

4. Learned Additional Government Pleader appearing for the first respondent and learned counsel appearing for the respondents 2 and 3 fairly conceded the facts submitted by learned counsel appearing on behalf of the petitioner.

5. Heard learned counsel appearing on either side and perused the materials placed on record.

6. This Court in W.P.Nos.34104 of 2019 etc., and batch vide order dated 20.06.2022 in paragraph Nos.22 to 24 has held as follows :

"22. The provision only provides for a levy of tax. In fact, it does not even provide for the levy of any other duties or cess. Seen in that light, the imposition of a library cess is also sans authority. However, as that is not the subject matter of challenge before me, I leave that at that.

23. As rightly pointed out, the sum total of 'general tax + educational tax + library cess' amounts to 24.8% of the annual value of buildings which is within the permissible limit whereas the addition of surcharge would carry the amount over and above the permissible limit.

24. For the aforesaid reasons, the impugned resolution, to the extent to which it levies surcharge, is found contrary to the provisions of the respective enactments and such levies are quashed. These Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed."

7. In view of the issue having been settled already and the present case falls squarely within the four corners of the said decision, this Court is

inclined to extend the same benefit to this petitioner also.

8. Accordingly, the writ petition is allowed in line with the order passed by this Court in W.P.Nos.34104 of 2019 etc., and batch dated 20.06.2022. The petitioner is directed to pay the property tax in terms with the order passed in W.P.No.34104 of 2019, etc. batch within a period of two (2) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

02.06.2023
(1/2)

rap
Index : Yes / No
Speaking order : Yes / No
NCC : Yes / No
To
1. The Secretary,
   The Government of Tamil Nadu,
   Municipal Administration and Water Supply Department,
   Fort St.George, Chennai – 600 009.

2. The Commissioner, Greater Chennai Corporation,
   Ripon Building, Chennai – 600 003.

3. The Revenue Officer, Greater Chennai Corporation,
   Zone No.01, Thiruvottiyur, Chennai – 600 019.

<u>M.DHANDAPANI, J.</u>

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<u>W.P. No.9061 of 2020</u>

02.06.2023
(½)

W.M.P.No.11031 of 2020
in
W.P.No.9061 of 2020

M.DHANDAPANI., J.

Dispensed with for the present.

02.06.2023
(2/2)

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