BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.8653 of 2013
and
M.P.(MD) Nos.1 to 3 of 2013

Muthiah Pillai-Meenakshiammal
Public Charitable Trust,
Rep., by its Trustee, V.P.M.Sankar,
48, Thaikapatti Street, Srivilliputtur,
Virudhunagar District .. Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Block Development Officer,
Srivilliputtur Panchayat Union,
Virudhunagar District.

3.The President,
Villupanur Panchayat,
Srivilliputtur Panchayat Union,
Virudhunagar District. .. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari to call for the records of the 1st respondent in his proceedings in Na.Ka.U.E. 6/2526/2008 dated 13.05.2013 and quash the same as illegal, violation of principles of law.

For Petitioner	:	Mr.M.Jothi Basu
For RR1 & 2	:	Mr.D.Gandhiraj Special Government Pleader
For R3	:	Mr.N.S.Karthikeyan

ORDER

The petitioner, who is a Public Charitable Trust, has filed this writ petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India for issue of Writ of Certiorari calling for the records of the first respondent in his proceedings in Na.Ka.U.E.6/2526/2008, dated 13.05.2013 and quash the same.

2. The facts relevant for the disposal of the above writ petition are hereinbelow set out:

The petitioner/Trust is the Public Charitable Trust governed by the provisions of the Indian Trust Act and was created on 13.03.1993. The Trust, under its umbrella, has several educational institutions which include Colleges, Teacher Training Institutions and Schools. The Trust has obtained necessary permission from the competent authorities to run the Educational Institute.

3. The Trust had, in the year 1993-94, started two institutions under the name and style 'VPMM Arts and Science College for Women' and 'VPMM Matriculation Higher Secondary School'. The petitioner had constructed a building after obtaining permission from the Block Development Officer of the Srivilliputtur Panchayat Union. The land and building are situate within the Villupanur Panchayat However, the Panchayat lacks the basic amenities like streetlight, road, drainage, water connection, etc.

4. It is the further case of the petitioner that till the year 2011, there was no dispute between the Panchayat and the Trust regarding the payment of property tax. However, in the year 2011, the 3rd respondent/Panchayat had issued a demand notice demanding payment of property tax. Individual notices were sent to the institutions and they

were directed to pay property tax from the year 2008. This was challenged by the petitioner by filing W.P.Nos.10180 to 10184 of 2011 before this Court and the writ petitions are pending. On 19.11.2012, the 3rd respondent had send individual notices to the Educational Institutions to pay property tax and it was also stated that if the property tax is not paid within the period stipulated, distraint proceedings would be initiated. On 03.12.2012, the petitioner had issued legal notices to the 2nd and 3rd respondents and requested them to await the outcome of the writ petitions. Thereafter, no steps were taken to recover the property tax. While so on 22.03.2013, the District Collector, Virudhunagar District, directed the petitioner to attend an enquiry on 26.03.2013. On 26.03.2013, the petitioner had appeared in person. However, on 13.05.2013, the first respondent had passed the impugned order and directed the third respondent/Panchayat to collect the property tax from the year 2008-09 with a fine of Rs.50,000/-. This order appears to have been issued pursuant to the orders of the Hon'ble Supreme Court dated 05.05.2012, wherein the Hon'ble Supreme Court had directed the Educational Institutions to pay the property tax to the Panchayat and report to the Court. This notice dated 13.05.2013 was challenged on the following grounds:

(a) The Panchayat cannot collect tax if the demand notice is not sent within the period of one year and in the instant case, the tax is sought to be recovered from the year 2008-09 and this demand is barred under Rule 33 of the Tamil Nadu Village Panchayat (Assessment and Collection of Taxes) Rules, 1999 (hereinafter referred to as “the Rules”);

(b) The matter is *sub judice* before the Hon'ble Supreme Court; and

(c) Rule 30 of the said Rules prescribes the mode of collection and in the instant case, the respondents have not followed this Rule.

Therefore, the petitioner has come forward with the present writ petition.

5. The second respondent has filed counter affidavit, in which he would contend that the petitioner's college is a self-financing college and therefore, not exempted from the payment of tax, as per the second proviso to Rule 15(c) of the Rules. The building was being used for educational purposes and includes hostel and labs and it is a self-

financing educational institution. Therefore, it does not fall within the ambit of Rule 15(c) of the Rules.

6. It is the contention of the second respondent that the Tamil Nadu Government had brought out an amendment to G.O.No.38, RD & PR Department, dated 05.03.2008, wherein a proviso was added after second proviso, that too, to cover even aided educational institutions which open self-financing Courses in the same campus and collect different fees from the students studying in different courses. Section 171 of the Panchayat Act has mandated levy of house tax on all houses in every Panchayat. The petitioner is a huge Educational Institution earning profits and the petitioner has a sufficient wherewithal to pay the basic property tax. It is only on receiving property tax, the authorities can carryout the welfare measures required to be executed by the State. The second respondent would further submit that a sum of Rs.5,00,000/- had been deposited pursuant to the directions of this Courts. The petitioner Institution being a commercial one and which is not running under Charitable Purpose, is liable to pay the fees.

7. Heard the learned counsel for the petitioner, the learned Special Government Pleader for respondents 1 and 2 and the learned counsel for the third respondent.

8. In the course of the argument, the learned counsel for the petitioner would submit that levy cannot take place, since there was no public notice in one issue of Tamil Daily, which is mandatory as contemplated under Rule 7(4) of the Rules. However, this argument cannot be countenanced for the simple reason that Rule 7(4) of the Rules relates to the imposition of tax for the first time. The instant case would not come within the category of first time assessment, but is a notice issued for non-payment of the property tax and for collection of the arrears of tax. The petitioner/Trust does not come within the exemption as provided under Section 15(c) of the Rules. The petitioner is running commercial activity, inasmuch as it is a self-aided school imparting education by collecting fees. Therefore, I see no error in the impugned order, which is nothing but a demand to pay the arrears of property tax.

Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

07.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

abr

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Block Development Officer,
Srivilliputtur Panchayat Union,
Virudhunagar District.

P.T.ASHA, J.

abr

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