IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5640 OF 2024

JAWAHAR MEDICAL FOUNDATION THROUGH ITS AUTHORIZED OFFICER RAKESH SUBHASH KAKUSTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH

WRIT PETITION NO. 10788 OF 2023

ADARSHA SHIKSHAN PRASARAK MANDAL DHULE THROUGH ITS PRESIDENT
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

WITH

WRIT PETITION NO. 11558 OF 2023

NAGAON EDUCATION SOCIETY NAGAON SANCHLIT GANGAMATA VIDYALAYA THROUGH ITS SECRETARY
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Mr. V. D. Hon, Senior Advocate i/b Mr. A. V. Hon, Advocate for Petitioners in WP/5640/2024 and WP/10788/2023
Mr. D. S. Bagul, Advocate for Petitioner in WP/11558/2023
Ms Neha Kamble, AGP for Respondent No.1 – State
Mr. N. N. Desale, Advocate for Respondent Nos. 2 and 3

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CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.

DATE : 01.07.2024

PER COURT :-

1. The learned Advocate for the Corporation and the learned AGP submit that Section 406 of the Maharashtra Municipal Corporation Act is an efficacious statutory remedy available to the Petitioners.

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2. The learned Senior Advocate Shri Hon submits that the Petitioners in Writ Petition Nos. 10788 of 2023 and 5640 of 2024, have already preferred the Appeal and during the pendency of the Appeal, the property tax demand notice has been issued.

3. The learned Advocate for the Corporation submits that the Petitioners are dodging the hearing by not producing the relevant records like five years income tax returns preceding the date of reference, the Bye-laws to show that the organization is operated for charitable purposes and the voluntary contributions that have to be disclosed to the Income Tax Authorities. Shri Hon submits that whichever are the documents demanded by the Corporation, the same would be tendered to the Corporation, within 45 days.

4. In view of the above, **these two Petitions are disposed off.** Needless to state, the notices for payment of property taxes which are the subject matters of the pending Appeal(s), shall not be effected until the decision in the Appeal(s), as these 2 Petitioners had already filed their appeals and yet the demand notices were once again issued.

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[Nagaon Education Society]

5. In Writ Petition No.11558 of 2023, the Petitioner agrees to file an Appeal under Section 406 of the Maharashtra Municipal Corporation Act, within a period of 15 days from today. The Appeal shall be considered by the Competent Authority by following the due procedure laid down in law. The Application dated 03.08.2023 shall be treated as being a part of the Appeal which the Petitioner now desires to file. For easy correspondence, the Petitioner has tendered its e-mail address as, mdbhadane65@gmail.com. The Commissioner would be at liberty to enter into correspondence on such e-mail address. Documents demanded, shall be submitted within 45 days. After the Appeal is decided, if an adverse order is passed, the

Petitioner would be at liberty to avail of a statutory remedy, as may be permissible in law.

6. Since the present Petitioner has not challenged the tax levied by filing an appropriate Appeal, the protection granted by this Court earlier, would continue on the condition that the Petitioner will deposit 50% of the tax which would be subject to the decision in the Appeal. On this condition, the impugned notice shall be kept in abeyance.

7. In all these 3 Writ Petitions, the Corporation shall issue a notice to the Petitioners on their following e-mail addresses :-

(1) Jawahar Medical Foundation – deanacpm@gmail.com

(2) Adarsh Shikshan Prasarak Mandal, Dhule - adarshdhule@rediffmail.com

(3) Nagaon Education Society- mdbhadane65@gmail.com

8. The Petitioners shall ensure that the certified true copies of the Income Tax returns, the Bye-laws and all other documents, as demanded, shall be tendered before the Commissioner in the respective Appeals, within 45 days from the date of receipt of the notices via e-mail and/or speed post.

9. By following the due procedure laid down in law, the appeals shall be decided and appropriate orders shall be passed. The Petitioners, thereafter, are at liberty to avail of the statutory remedy for assailing the orders, if adverse orders are passed.

10. These proceedings are restricted only to the property taxes. It is clarified that this order is passed only with reference to the issue raised in this Writ Petition and we have not drawn any conclusion about any other issue, which is kept open. **This Writ Petition is also disposed off.**

[Y. G. KHOBRAGADE, J.] **[RAVINDRA V. GHUGE, J.]**

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