2024:BHC-AS:47535



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 9648 OF 2024**

Jaihind Comprehensive Educational Institute. ...Petitioner.

***Versus***

State of Maharashtra and Another. ...Respondents.

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*Mr. Suhas S. Deokar for the Petitioner.*
*Ms. V. R. Raje, AGP for the Respondent-State.*

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**Coram : Sharmila U. Deshmukh, J.**
**Date : December 6, 2024.**

**P. C. :**

**1.** By this petition, the challenge is to the order dated 31st May 2022 passed by the Respondent No.2 and the order dated 10th May 2024 passed by the Respondent No.1 in Appeal under Section 47 of the Maharashtra Motor Vehicles Tax Act, 1958 seeking exemption from payment of taxes for the period from March-2020 to February-2022 on the ground that during Covid-19 pandemic as the educational institutes were operating Online, the buses of Petitioner which were 16 in numbers were not being used.

**2.** Learned counsel appearing for the Petitioner would point the report of Motor Vehicle Inspector who has recommended for exemption to be granted for the period from March-2020 to February-

2022. He would further submit that by a very cryptic order dated 31st May 2022, the Transport Commissioner has rejected the representation of Petitioner for the reason that the buses were insured during the said period and the photographs of vehicles do not indicate the non-use of vehicles for long period. He submits that it is common knowledge that during Covid-19 pandemic, the educational institutes were functioning Online and therefore vehicles were not used for plying the students of Petitioner's educational institute. He submits that the requirement of conducting classes online was directed by order of 18th January 2022 which provided that education has to be imparted in online mode till February-2022. He submits that Government Resolution to that effect was issued on 7th January 2022. He submits that all this material was not considered by the Respondent authorities while deciding his application.

**3.** *Per contra* learned AGP submits that the intimation in respect of non-use of vehicles has to be given to the authorities in advance and in event if not given in advance, within 7 days from the date of occurrence of exceptional circumstance which prevented the party from intimating in advance. She submits that the intimation in the present case has been given in the year 2022 and therefore the same has rightly been rejected.

**4.** I have considered the submissions and perused the records.

**5.** The Motor Vehicle Inspector's report is on record, wherein he has recommended the exemption to be granted. It is also common knowledge that during the period between March 2020 to February 2022 though the day-to-day affairs were being conducted partly, as far as the educational institutes are concerned, the classes were directed to be conduced in online mode only and the same is evident from the technical board's report and the Government Resolution dated 7th January 2022. It is sought to be contended by learned AGP that buses were used by the Petitioner for the purpose other than the transportation of students, which is demonstrated from the fact that the buses continued to be insured and were maintained in proper condition. Firstly, the impugned order of 31st May 2022 makes no such reference and there has to be some material on the basis of which the authority can come to a satisfaction that there was use of vehicles for the purpose other than plying students of educational institute.

**6.** *Prima facie*, considering that the Petitioner is an educational institute and the buses were being used for the purpose of plying students and Covid-19 pandemic which placed restrictions on public movement during substantial period of lock-down, it does not appear that the vehicles were put to use. In any event, it is expected of the authorities while rejecting the application for exemption for non use, to give reasons to justify the rejection. Even if the authority has arrived at a satisfaction that the vehicles were put to some other use, there must be some material and some finding, which is lacking in the impugned order. All that the impugned order says is that since buses are insured and in good condition, it does not appear that there was any non-use.

**7.** As far as as the requirement that the authorities have to be intimated in advance or at least within 7 days after the incident has occurred, learned counsel appearing for the Petitioner would point out various representations filed by the Petitioner from time to time.

**8.** Considering the cryptic manner in which the application has been dismissed, in my opinion, the appropriate course would be to remand the matter to the Respondent No.2-Transport Commissioner, to be considered afresh. The parties are at liberty to advance fresh submissions and place additional material on record to demonstrate non-use of vehicles. It may also be noted that even if it is found that the vehicles were not used for certain period for which exemption is sought, it surely can be granted exemption, during the period when there was complete lock-down and no movement.

**9.** Considering that by reason of non payment of motor vehicle tax, the Petitioner's vehicles are detained, the Transport Commissioner is requested to decide the Petitioner's application expeditiously subject to its convenience. The Petitioner to appear before the Transport

Commissioner on 12th December 2024 at 11.00 a.m.

**10.** As the matter is being remitted for fresh enquiry, the impugned orders are hereby quashed and set aside.

**11.** Petition is disposed of in above terms.

**[Sharmila U. Deshmukh, J.]**