



W.P.(MD) No.23096 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.23096 of 2022

and

W.P.(MD) Nos.17192 and 17193 of 2022

K.Ramakrishnan Health and Education Trust,
Rep. by its Managing Trustee,
127, Main Road,
Thalavapalayam,
Karur - 639 113.

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Rural Development and Panchayat Raj Department,
Fort St. George,
Chennai – 600 009.

2.Inam Samayapuram Panchayat,
Rep. by its President,
Inam Samayapuram,
Mannachanallur Taluk,
Thiruchirappalli District – 621 112.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents relating to the order of the second respondent, dated 01.12.2021, quashing the same insofar as demand for the collection of



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Surcharge on House Tax and forbearing the respondents from levying Surcharge on House Tax as contemplated in Explanation II under Schedule I to Tamil Nadu Panchayat Act, 1994, for the buildings of the petitioner Educational Institutions.

For Petitioner : Mr.K.Doraisami
Senior Counsel
for Mr.Muthumani Doraisami

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus,

- i. calling for the records of the respondents relating to the impugned order of the second respondent, dated 01.12.2021,
- ii. quashing the same insofar as demand for the collection of Surcharge on House Tax, and
- iii. forbearing the respondents from levying Surcharge on House Tax as contemplated in Explanation II under Schedule I to Tamil Nadu Panchayat Act, 1994, for the buildings of the petitioner Educational Institutions.



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2. The learned counsel for the petitioner would submit that the learned Single Judge of this Court in a batch of Writ Petitions in W.P.Nos. 8160 of 2016 etc. in the case of **The Kaavery Educational Trust Vs. The Government of Tamil Nadu, represented by its Secretary, Rural Development and Panchayat Raj Department**, *vide* order dated 20.06.2016 had directed the Panchayats not to levy surcharge and to wait for decision of the Hon'ble Division Bench of this Court or the Hon'ble Supreme Court whichever is earlier, where the larger issue as to whether the institutions are entitled for the benefit of exemption, is pending consideration.

3. It is submitted that despite the aforesaid directions, the second respondent has issued the impugned order levying surcharge. The learned counsel for the petitioner drew attention to the decision of the Hon'ble Division Bench of this Court in **Sriram Educational Trust Vs. President, 89 Perumalpattu Panchayat Union, Thiruvallur Taluk and District**, 2008 (1) CTC 449 and the decision of the Full Bench of this Court in **Sundarvalli Ammal Vs. Government of Tamil Nadu, rep. by its Commissioner and Secretary to Government, Adi Dravidar Tribal**



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Welfare Department and others, 2008 (2) CTC 241 as far as the levy of property tax is concerned.

4. It is submitted that as the levy of property tax is itself subject matter before the Hon'ble Supreme Court in S.L.P.(Civil) No.20031 of 2012, the respondent was not justified in levying and collecting surcharge under the Act. It is therefore submitted that this Writ Petition be allowed.

5. Per contra, the learned Special Government Pleader for the respondents has referred to a recent decision of this Court rendered on 03.06.2024 in W.P.(MD) No.6888 of 2022 in the case of **V.S.B.Engineering College Vs. The District Collector, Officer of the Collector, Karur and others**, wherein, the issue relating to levy of surcharge under Section 172(1) of the Tamil Nadu Panchayats Act, 1994 and Schedule attached to the Act came up for consideration. It is submitted that by the aforesaid order dated 03.06.2024 in W.P.(MD) No. 6888 of 2022, this Court has decided the issue.



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6. It is submitted that similar case came up for consideration before this Court in the case of **SSM College of Engineering, Rep. by its Administrative Officer, Komarapalayam, Namakkal District Vs. The Government of Tamil Nadu, Rep. by its Secretary, Rural Development and Panchayat Raj Department and another**, in W.P.No. 25014 of 2016. This Court *vide* order dated 18.08.2021 has rejected the relief sought for by the petitioner therein in respect of levy of surcharge.

7. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents, and in the light of the recent decision of this Court in the case of **V.S.B.Engineering College Vs. The District Collector, Officer of the Collector, Karur and others**, in W.P.(MD) No.6888 of 2022, rendered on 03.06.2024 and the decision of this Court in **SSM College of Engineering, Rep. by its Administrative Officer, Komarapalayam, Namakkal District Vs. The Government of Tamil Nadu, Rep. by its Secretary, Rural Development and Panchayat Raj Department and another**, in W.P.No.25014 of 2016, rendered on 18.08.2021, I am of the view, there is no merits in this Writ Petition.



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8. Therefore, this Writ Petition is liable to be dismissed and is accordingly dismissed. Consequently, connected Miscellaneous Petitions are closed.

11.07.2024

Index: Yes / No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

Copy To:

1.The Secretary,
Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Fort St. George,
Chennai – 600 009.

2.The President,
Inam Samayapuram Panchayat,
Inam Samayapuram,
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C.SARAVANAN, J.

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