(2013) 04 MP CK 0052

In the Madhya Pradesh High Court

Case No : Writ Petition 669 of 2005

Ashish Sankhala and Others APPELLANT

Vs

Municipal Council, Shivpuri and Another RESPONDENT

Date of Decision : 18-04-2013

Acts Referred:
Constitution of India, 1950 — Article 276, 276(2)

Citation : (2013) 04 MP CK 0052

Hon'ble Judges : S.K. Gangele, J;D.K. Paliwal, J

Bench : Division Bench

Advocate : Sunil Jain, for the Appellant; Kunal Suryavanshi, Advocate for the respondent No. 1 Municipal Council and Shri Praveen Newaskar, Deputy Government Advocate for respondent No. 2 State, for the Respondent

Judgement

1. Heard counsel. The petitioners have filed the present writ petition challenging the orders Annexures P/1 to P/5, dated 16/2/2005, 11/2/2005, 15/2/2005, 16/2/2005 and 11/2/2005 respectively.

2. By the aforesaid orders, the respondent No. 1 Municipal Council, Shivpuri imposed professional tax at the rate of Rs. 5000/- per annum on the petitioners on the ground that the petitioners have been doing the business of petrol pump and they are liable to pay the professional tax in accordance with the provisions of Section 127 (6) (c) of the Municipalities Act from the year 2000-01.

3. Section 127 (6) (c) of the Municipalities Act empowers a Municipal Council to impose tax on persons exercising any profession or art or carrying on any trade or calling within the boundaries of the municipal council. Relevant provision is extracted hereunder:

S. 127(6)(c)- a tax on persons exercising any profession or art or carrying on any trade or calling within the city.

4. Article 276 of the Constitution of India prescribes taxes on professions, trades, callings and employments and Article 276(2) prescribes total amount payable in

respect of one person to the State or to any Municipality. The relevant provision is quoted below:

276(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two thousand and five hundred rupees per annum.

5. In terms of the aforesaid provision, the maximum tax which could be imposed by the Municipal Council on a person in regard to the professional tax is Rs. 2500/- per annum. Thus a limit has been fixed by Sixtieth Amendment Act, 1988 with effect from 20/12/1988. The aforesaid fact has not been disputed by the learned counsel for the respondent Municipal Council and he admitted the fact that the Municipal Council has no power to impose the professional tax excess to Rs. 2,500/- (Rs. Two thousand five hundred). Hence, this petition is disposed of with the following directions:

1. That the impugned notices Annexures P/1 to P/5 issued to the petitioners by the respondent Municipal Council, Shivpuri in regard to imposition of professional tax of Rs. 5000/- per annum are hereby quashed and it is held that the Municipal Council can impose the professional tax at the rate of Rs. 2,500/- (Rs. Two thousand five hundred) per annum.

2. The petitioners are liable to pay the aforesaid tax accordingly to the Municipal Council.

3. The Council is at liberty to recover the professional tax from the petitioners, if it has not already been recovered, or adjust the amount of tax accordingly.

No costs.