(2006) 01 P&H CK 0134

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 3537 of 2004

Digamber Jain Society — APPELLANT

Vs

State of Haryana etc. — RESPONDENT

Date of Decision : 10-01-2006

Acts Referred:

Citation : (2006) 143 PLR 421 : (2006) 2 RCR(Civil) 552

Hon'ble Judges : N.K. Sud, J;Ajay Kumar Mittal, J

Bench : Division Bench

Advocate : C.B. Goel, for the Appellant; Ritu Bahri, D.A.G. and Sanjiv Kaushik, for the Respondent

Final Decision : Allowed

Judgement

Ajay Kumar Mittal, J.—Petitioner No. 1 is a Registered Society which is running a school in the name of Modem School (Senior Secondary School), at Faridabad, which is affiliated to the Central Board of Secondary Education and is an approved school. Petitioners dispute their liability to pay House Tax assessed by respondent No. 4-Municipal Corporation, Faridabad, vide demand notice dated 2.2.2000 (Annexure P-3). According to the petitioners, they are not liable to pay House Tax in terms of Notification issued by the Haryana Government, Urban Development Department, dated 30.9.2003 (Annexure P-12), which exempts immovable property of approved colleges, schools, boarding, hostels and libraries.

2. Learned Counsel the petitioners states that the controversy stands settled in favour of the petitioner vide order dated 23.8.2004 in C.W.P. No. 14138 of 2003 Tagore Bal Niketan, Senior Secondary School B.G. (Educational Trust), Karnal v. State of Haryana and Ors.).

3. Learned Counsel for respondent No. 4, however, states that the judgment relied upon by the counsel for the petitioners related to earlier Notification dated 30.7.1975, which stands superseded by fresh Notification dated 30.9.2003. He further points out that the earlier Notification was under the Haryana Municipal

Act, 1973, whereas the later Notification is under the Haryana Municipal Corporation Act, 1994.

4. We have heard the counsel for the parties and have perused the two Notifications. We have also gone through the judgment in C.W.P. 14138 of 2003 and are satisfied that it fully covers the case in hand. Under the Notification dated 30.7.1975, the exemption was provided in para-2 of the Notification, which reads as under:

2. All buildings and lands or portions thereof used exclusively for educational purposes including colleges, schools, board houses, hostels and libraries, if such buildings and lands or portion thereof are either owned by the educational institutions concerned or have been placed at the disposal of such educational institutions without payment of any rent.

Note: No exemption will be given to any property as defined in Clauses (1) and (2) if any portion thereof has been constructed or used for commercial purpose.

(Emphasis supplied)

Under the new Notification dated 30.9.2003, the exemption is provided in para-3, which reads as under:

3. All buildings and land or portions thereof used exclusively for educational purposes where fees at rates prescribed by Government or equivalent to Government schools are charged, including colleges, schools, boardings, hostels and libraries, if such buildings and land or portion thereof are either owned by the educational institutions concerned or have been placed at the disposal of such Educational Institution without payment of any rent.

Note: No exemption will be given to any property as defined in Clauses (1) and (3) if any portion thereof has been constructed or used for commercial purposes.

(Emphasis supplied)

A conjoint reading of the aforesaid two paras shows that as far as the colleges, schools, boardings, hostels and libraries are concerned, the buildings of the same have been exempted from House Tax, if such buildings or portion thereof are either owned by the educational institution or have been placed at the disposal of such educational institution without payment of any rent. The provision is identical in para-3 of the new Notification with the exception that the word "approved" has been added to the colleges, schools, boardings, hostels and libraries.

5. It is not in dispute that the petitioner-School is an approved institution. In this view of the matter, we are satisfied that the judgment relied upon by the counsel for the petitioners fully covers the case in their favour. In view of the above, we are satisfied that the petitioner-School is not liable to pay the House Tax.

6. Accordingly, the writ petition is allowed. Demand notice dated 2.2.2000

(Annexure P-3), order dated 19.4.2002 and 16.1.2004 (Annexures P-9 and P-10, respectively) are quashed. No costs.

