(1996) 06 KAR CK 0007

In the Karnataka High Court

Case No : WPs. 32120 to 32121 and 44862 to 44863 of 1993

Indian Medical Association and Another APPELLANT

Vs

State of Karnataka and Another RESPONDENT

Date of Decision : 05-06-1996

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1996) ILR (Kar) 3021 : (1997) 42 KarLJ 48

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : M.R. Shailendra and Ashok Patil, for the Appellant; K.M. Shivayogiswamy, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

G.C. Bharuka, J.—In these two Writ Petitions, petitioners have called in question the validity of Serial No. 2C of the Schedule to the Karnataka Profession Tax Act, 1976 (in short, ''the Act'') which pertains to providing of rate of tax under the said Act in respect of Medical Practitioners on the ground that it violates the equality clause under the Constitution.

2. Petitioners in the present cases are Medical Practitioners having standing of more than five years in the profession. They are practising in District Head Quarters like Karwar, Taluka Head Quarter, Honnavar (Uttara Kannada District), and Bangalore Urban Agglomeration. The first petitioner in Writ Petition No. 32120 of 1993 is the Association of Medical Practitioners.

3. The contention raised on behalf of the petitioners is that the measure adopted under the Act for prescribing the rate of tax is arbitrary in as much as the same could have been prescribed only on the basis of income earned by such medical practitioners as is sought to be done in the case of persons carrying on business and not on the basis of the place of their practice or their standing in the profession.

4. For appreciating the contentions raised Item 2-C of the Schedule to the Act may be noticed. It reads as under:

"Medical Practitioners, including Rs. 1,500/- per annum Medical Consultants Other than Practitioners of Ayurvedic, Homeopathic and Unani systems of Medicines), Dentists, Radiologists, Pathologists and persons engaged in other similar professions or callings of a paramedical nature.

(a)in Bangalore Urban Agglomeration or within the Municipal limits of a District Headquarters towns, where the standings in profession is,-

(i) less than two years Nil (ii) two years or more but less than five years Rs. 1,000 per annum

(iii) five years or more Rs. 1,500 per annum

(b) in any other area in the State,-

(i) less than two years Nil

(ii) two years or more but less than five years Rs. 500 per annum

(iii)five years or more but less than ten years Rs. 1,000 per annum

(iv)ten years or more Rs. 1,500 per annum."

5. On going through the Schedule to the Act, I find that in the case of salary holders or wage earners the rate of professional tax has been prescribed keeping in view their monthly salary or wages; in case of professionals like legal practitioners, solicitors and notary public, technical and professional consultants, various agents and Surveyors, Chartered Accountants, Medical practitioners, Engineers, Architects and management consultants, the Legislature has found it more reasonable to prescribe the rate of tax under the Act keeping in view the place of their working and their standing in terms of the years in the profession. This is the uniform measure which has been applied in case of all the professionals. In case of business persons and traders, a different measure has been provided either based on income or ad valorem.

6. It cannot be disputed that for the professionals, by and large, the place of practice and their standing in the profession has a direct bearing on their earnings cum paying capacity. Therefore, these factors can always form a reasonable basis for classifying the professionals to pay tax at a particular rate as has been done by the Legislature under the present Act.

7. It is well settled that Article 14 of the Constitution prohibits class legislation and not reasonable classification for the purpose of legislation. If the Legislature takes care to reasonably classify persons for legislative purposes and if it deals equally with all persons belonging to a well defined class, it is not open to the charge of denial of equal protection on the ground that the law does not apply to other persons.

8. It is also well settled that in the field of taxation as well, generally speaking the law cannot be subjected to challenge on the ground that the result of taxation is to impose unequal burden on different persons provided it imposes a similar burden on every one with reference to that particular criterion and on the same basis of taxation.

9. In the case of Khyerbari Tea Co. Ltd. and Another Vs. The State of Assam, , it has been held by the Supreme Court that in tax matters the State is allowed to pick and choose districts, objects, persons, methods and even rate of tax if it does so reasonably.

10. Weighing on the said well settled constitutional principles guiding ascertainment of reasonable classification, in my opinion the classification as made under Item 2C of the Schedule to the Act, providing different rate of tax based on place of practice and standing in the profession cannot be held to be discriminatory or arbitrary within the meaning of Article 14 of the Constitution of India. As such, no relief as claimed can be granted to the petitioner.

11. Writ Petitions are accordingly dismissed, but without any order as to costs.

