**(1989) 12 MAD CK 0043**

**In the Madras High Court**

Nepco Schlenk Engineering College APPELLANT

Vs

The President, Keriseri Panchayat and Others RESPONDENT

**Date of Decision :** 12-12-1989

**Acts Referred:**

**Citation :** (1990) 1 LW 145 : (1990) 2 MLJ 381

**Hon'ble Judges :** Srinivasan, J

**Bench :** Single Bench

## Judgement

Srinivasan, J.—This writ petition is directed against two notices issued by the first respondent on 20th April, 1989. By one notice, the petitioner was called upon to produce a certificate of valuation relating to the two hostels and one canteen for the purpose of determining the property tax for the year 1989-90. By the other notice, the petitioner was called upon to pay a sum of Rs. 64,050 being the property tax and library cess for the two hostels and the canteen for the year 1989-90. By the latter notice, which is really a demand for payment of tax, the value of the two hostels has been fixed at Rs. 60,00,000 and the canteen has been valued at Rs. 1,00,000.

2. It is rather perplexing that on the same day, one notice calls upon the petitioner to produce a valuation certificate for the purpose of determining the value of the property for assessment of tax, and another notice fixes the value and demands the petitioner to pay the tax on the basis thereof, Obviously, all is not'' well with the first respondent Panchayat.

3. The relevant rules framed under the Tamil Nadu Panchayats Act (XXXV of 1958) grant exemption from payment of house tax for certain classes of buildings. Clause (c) of Rule 1 which is available at page 174 of the Tamil Nadu Panchayats Act published by the Madras Law Journal Office, Madras under the heading ''house tax'' reads as follows:

The following buildings shall, if they fall within the definition of ''house'' under the Act be exempt from the house tax--

(a) ....

(b) ....

(c) buildings used for educational purposes including hostels and for libraries which are open to the public, public buildings used for the charitable purpose of sheltering the destitute or animals.

There are two provisos and the first proviso reads as follows:

Provided that nothing contained in Clauses (a)(c) and (e) shall be deemed to exempt house-tax any building for which rent is payable by the person or persons using the same for the purposes referred to in the said clauses.

The second proviso is to the following effect--

Provided further that buildings used for educational purposes including hostels owned and run for such purpose irrespective of the fact whether any rent is payable by the person or persons using the same for educational purposes or not, shall be exempt from tax.

The second proviso is mandatory in its terms and even if the educational agency of the management of the institution charges rent for the occupation of the hostels from the occupants thereof, the buildings are exempt from property tax. Hence the demand made by the first respondent on the petitioner for payment of tax as well as for production of certificate of valuation with respect to the two hostel buildings is unsustainable and they have to be quashed.

4. However, the demand for production of valuation certificate with regard to the canteen may be considered by the first respondent after giving opportunity to the petitioner to make representation as to whether a canteen run by the authorities will fall under the exemption clause. It will be open to the petitioner to prove before the first respondent that the canteen will be covered by the exemption clause because it is an integral part of the hostels or because of any other reason. It will be for the first respondent to consider the representations of the petitioner and pass appropriate orders, after hearing the petitioner. It is only thereafter the first respondent is entitled to make assessment and make a demand for payment of tax, if the first respondent comes to the conclusion that the exemption clause does not cover the canteen.

5. In the result the writ petition is allowed and the two notices dated 20-4-1989 are quashed, with the liberty given to the first respondent as stated above in so far as the canteen is concerned for making an assessment after considering the representations of the petitioner. There will be no order as to costs.