
(1979) 01 GUJ CK 0019
In the Gujarat High Court

Case No : Special Civil Application No's. 840 of 1971 and 447 of 1972

Parviz Nariman Kothawala and Another	APPELLANT
Vs	
State of Gujarat and Others	RESPONDENT

Date of Decision : 16-01-1979

Acts Referred:

Bombay Land Revenue Rules, 1921 — Rule 82

Citation : AIR 1979 Guj 203 : (1979) 20 GLR 977

Hon'ble Judges : S.H. Sheth, J;N.H. Bhatt, J

Bench : Division Bench

Advocate : S.H. Sanjanwala, for the Appellant; J.R. Nanavati, Asstt. Govt. Pleader, instructed by P.J. Vyas, of Purnanand and Co., for the Respondent

Judgement

S.H. Sheth, J.

1 to 10. x x x

11. In Special Civil Application No. 840 of 1971 he has raised one more contention. His contention is that before fixing the standard rate of assessment, the petitioner was not heard. He has tried to pitch fork for this contention in the armoury of principles of natural justice. Now, third principle in R. 82 of the Bombay Land Revenue Rules, 1921 enables the State Government to "determine what percentage shall be charged in any locality to which this rule is applied and the standard rates of non-agricultural assessment shall be calculated thereupon and shall be levied in place of the current rate of assessment." It further provides that "at intervals of 10 years or, in particular localities, at such shorter intervals as the State Government may direct, the rates shall be revised with the sanction of the State Government. Until the rates are so revised, the old rates shall remain in force". Lastly, it provides that the rates sanctioned from time to time

shall be published in the Official Gazette and public notice will be given one year before any revised rates come into force. This provision empowers the State Government to fix standard rate in respect of any area. The areas demarcated for the purposes of application of standard rates of non-agricultural assessment are known as standard zones. The constitution of standard zones is not in dispute before us, Before standard rate of non-agricultural assessment for this particular zone was fixed, public notice was issued and objections from the members of the public were invited. Those objections were considered and the final decision was arrived at. Can we say on these facts that the petitioners were not given a reasonable opportunity of being heard in the matter? We are unable to say so because where something is done by public authority which affects a large section of the community, then it can be done by, inviting objections from the members of the public and by considering them before arriving at the final decision. It is neither possible nor expedient to serve a show-cause notice upon all members of the community who are likely to be affected by the final decision nor is it possible and expedient to hear all of them or so many of them who desire to be heard. The principle of natural justice cannot be extended to such an extreme length of absurdity. In the instant case, the objections were invited and they were considered by the State Government. There is nothing on record to show whether the petitioners lodged objections or not. Nor is there anything on record to show whether they wanted to be heard by the appropriate authority. When the petitioners failed to lodge objections in response to the public notice (we are assuming it to be so because there is no averment one way or the other in the petition), they missed the bus and cannot now complain of violation of the principles of natural justice. The situation would have been altogether different if they had lodged the objections and they were not considered or if they had lodged the objections and requested the appropriate authority to give them a hearing and they were not heard. That is not the situation in the instant case.

12. In this context Mr. Sanjanwala has further argued that objections were considered by the revenue authorities (irrespective of the fact whether they were lodged by the petitioners or other persons) after the final decision was arrived at there is nothing on record to substantiate this

proposition. However, it is quite likely that in a matter of this type, some tentative decision might have been arrived at and while inviting objections from the members of the public, it might have been published as a proposal in the context of which members of the public were called upon to lodge objections. To form a tentative proposal or to arrive at a tentative decision with the object of inviting objections to it so as to arrive at a just, fair and final decision is not equivalent to making a final decision on the contrary, if a tentative proposal was not placed before the members of the public, then it could have been argued (probably with some justification) that there was no proposal to which the objections were to be lodged by the members of the public and that, therefore, seeking public opinion in the matter was a mere empty formality. We, therefore, find no infirmity in what was done by the revenue authorities in the instant case. After having fixed the standard rate of non-agricultural assessment, all that is required to be done is to calculate what amount a particular person is liable to pay. Having determined that amount, a notice of demand could be issued. Prior to the issuance of such notice of demand, it is not necessary, in our opinion, to hear the person concerned, because what is sought to be enforced is a standard rate of nonagricultural assessment fixed for a standard zone. If every individual is required to be heard in such a case, the standard rate of non-agricultural assessment would cease to be one and the whole concept underlying principle III incorporated in Rule 82 will fail, because, in each individual case, the Deputy Collector would be required to take into account minor variations here and there and would be required to fix assessment accordingly. To do so is to cut across the principle of standard rate of non-agricultural assessment. Therefore, as long as the principle of fixing standard rate of non-agricultural assessment is in force by virtue of Rule 32 of the Bombay Land Revenue Rules, 1921, none affected thereby is required to be given a notice to show cause why it should not be enforced against him nor is he required to be heard as to at what rate non-agricultural assessment should be paid by him for his property. Taking into account details of each individual case and fixing assessment is in the present context absolutely contradictory to and inconsistent with the principle of standard rate of non-agricultural assessment contemplated by Rule 82 of the Bombay Land Revenue Rules, 1921. Therefore, no question of giving any individual notice to the petitioners arose

in the instant case. The last contention which Mr. Sanjanwala has raised only in the second mentioned petition fails and is rejected,

13. Rule discharged.