

(2006) 08 KL CK 0072

High Court Of Kerala

Case No: O.P. No. 31568 of 2001

St. Mary of Leuca English
Medium School

APPELLANT

Vs

Dy. Director of Panchayat and
Another

RESPONDENT

Date of Decision: Aug. 2, 2006

Acts Referred:

- Kerala Panchayat Raj Act, 1994 - Section 207(1)(c)

Citation: (2006) 3 ILR (Ker) 778 : (2006) 3 KLJ 111 : (2006) 3 KLT 760

Hon'ble Judges: C.N. Ramachandran Nair, J

Bench: Single Bench

Advocate: S. Vijayan Nayar, for the Appellant; T.R. Ravi, for the Respondent

Final Decision: Allowed

Judgement

C.N. Ramachandran Nair, J.

The petitioner is challenging Ext. P6 demand of property tax by the second respondent in respect of a school building after declining exemption claimed by the petitioner u/s 207(1)(c) of the Kerala Panchayat Raj Act, 1995 vide Exts. P3 and P5. Even though there is no response from the second respondent, the Government Pleader appearing for the first respondent argued covering the entire issue raised by the petitioner. The school run by the petitioner is following CBSE syllabus. The school buildings are located in two Panchayats and it is seen from Ext. P4 that only one Panchayat has demanded building tax in respect of the school buildings after declining exemption vide exhibits above referred. Counsel for the petitioner relied on Ext. P1 and contended that petitioner being a recognised school is entitled to exemption from property tax in respect of school buildings u/s 207(1)(c) of the Panchayat Raj Act. Government Pleader on the other hand contended that only recognised schools are entitled to property tax exemption in respect of the buildings and in this regard he referred to Chapter V of the Kerala Education Rules,

1959 which provides the complete scheme for recognition and withdrawal of recognition of schools by the Government. Therefore, according to the Government Pleader, the qualifying term "recognition" in the present context means recognition by the Government in terms of Chapter V of the KER. Counsel appearing for the petitioner on the other hand submitted that since petitioner is following the CBSE syllabus, petitioner has affiliation to the Central Board of Secondary Education and all what is required from the Government is a No Objection Certificate which is issued by the State Government vide Ext. P1. Therefore, according to him, Ext. P1 is to be treated as recognition by the Government for the educational institution and so much so, requirement of Section 207(1)(c) is satisfied and hence petitioner is entitled to exemption. It is seen from Ext. P3 that second respondent-Panchayat has assumed recognition as involving financial aid from the State Government. However, disallowance of exemption is confirmed by the first respondent for the reason that the school is not an educational institution "recognised" by the Government. Even though Ext. P5 does not explain the nature of recognition. Government Pleader submitted that recognition for the school has to be with reference to the relevant law i.e. KER. Recognition for school as rightly pointed out by the Government Pleader has to be under the law applicable i.e. KER. However, it is to be seen that Section 207(1)(c) covers not only schools, but the whole category of educational institutions. Therefore, the meaning and scope of "recognition" as used in the Section has to be found out with reference to "educational institutions" as a whole. So far as schools following the State syllabus and conducting the State Board Examinations are concerned, it is the KER that is applicable and recognition required for such schools is under the said Rules. However, Schools following CBSE syllabus do not require any recognition from State Government and what is evident from Ext. P1 is that requirement is only a No Objection Certificate and the condition for it is compulsory teaching of local language i.e. Malayalam. Educational Institutions referred to in Section 207(1)(c) certainly cover institutions imparting higher education also and so far as higher education is concerned, there is no statutory provision for recognition by the Government. What Government grants is No Objection Certificate and it is for the educational institution to get approval for starting courses from educational agencies which in the case of technical education is All India Institute of Technical Education, in the case of medical courses is All India Council of Medical Education and thereafter to get affiliation to the University. Therefore, I am of the view that recognition of educational institution by the State Government as stated in Section 207(1)(c) of the Act is not always recognition under the KER, even though schools recognised under Chapter V of the KER are entitled to exemption. Wherever statutory recognition is not called for the educational institution, even NOC has to be treated as "recognition" for the purpose of Section 207(1)(c) of the Act. If such a wide meaning is not given to the word "recognition" u/s 207(1)(c) of the Act, then the operation of the said section will be discriminatory in as much as schools following the State syllabus will get exemption, whereas schools following Central syllabus will not get exemption. The exemption contemplated u/s

207(1)(c) is with reference to nature of use of the building i.e. education. All what is required for exemption from tax is that the educational institution should not be unauthorised i.e. run without the approval of the Government. So long as Government approves the running of the educational institution which in this case is satisfied by virtue of NOC obtained by the petitioner vide Ext. P1, the educational institution of the petitioner should be treated as recognised by the Government for the purpose of Section 207(1)(c) of the Act. In this view of the matter. I hold that the view taken by the second respondent vide Exts. P3 and P4 are therefore set aside. The O.P. is allowed directing the second respondent to grant exemption from property tax for the buildings used by the petitioner for the purpose of running the schools so long as the school is run there with an affiliation to CBSE and No Objection Certificate from the State Government.