

P. C. Raja Ratnam Institution

Vs

Municipal Corporation of Delhi and Others

Civil Appeal No. 43 Of 1982 and Writ Petition No. 265 of 1980

(L. M. Sharam, K. N. Saikia, Dr. T. K. Thommen JJ)

06.09.1989

JUDGMENT

SHARMA J. –

The petitioner claims exemption under section 115(4)(a) of the Delhi Municipal Corporation Act, 1957, from the liability of paying general tax leviable under the said section.

The case of the petitioner is that it is a non-profit-making registered society and its object is to organize and run schools in Delhi and elsewhere with a view to promote education and welfare. Accordingly, it is running a school with the name of General Raj's School in Delhi in a building constructed for that purpose. A demand was made by the appropriate authority of the Municipal Corporation for payment of general tax under the Act and the exemption claimed by the petitioner was rejected. In this situation, the petitioner moved the Delhi High Court under article 226 of the Constitution for appropriate relief. The writ petition was dismissed in limine by the following order :

"The only question that arises for consideration is whether the school run by the society falls within the ambit of clause (4) of section 115 of the Delhi Municipal Corporation Act. Reading this section, it is obvious that exemption from levy of general tax could be granted if the society which is running the school was a society for charitable purposes. Charitable purpose is defined in the Explanation to clause (4) of section 115. No doubt the school is imparting education but in order to qualify for exemption, it had to give education and medical relief. Admittedly, fees are charged from students. Mere imparting of education cannot be called giving relief. We, therefore, find nothing wrong with the stand taken by the Municipal Corporation of Delhi. Dismissed."

The present civil appeal by special leave is directed against this judgment.

Learned counsel of the petitioner has contended that, in view of the language of section 115(4)(a) quoted below, it is not correct to suggest that to qualify for exemption from the tax liability, it is necessary for a society to offer medical relief :

"(a) lands and buildings or portions of lands and buildings exclusively occupied and used for public worship or by a society or body for a charitable purpose :

Provided that such society or body is supported wholly or in part by voluntary contributions, applies

its profits, if any, or other income in promoting its objects and does not pay any dividend or bonus to its members.

Explanation. - 'Charitable purpose' includes relief of the poor, education and medical relief but does not include a purpose which relates exclusively to religious teaching;"

The argument is well founded. The test of "charitable purpose" is satisfied by the proof of any of the three conditions, namely, relief of the poor, education or medical relief. The fact that some fee is charged from the students is also not decisive inasmuch as the proviso indicates that the expenditure incurred in running the society may be supported either wholly or in part by voluntary contributions. Besides, the Explanation is, in terms, inclusive and not exhaustive. The impugned judgment must, therefore, be held to be erroneous.

Mr. S. Sen, learned counsel representing the respondent-Municipal Corporation, contended that although he is not in a position to support the reasoning given by the High Court, the petitioner is, for other reasons, not entitled to the exemption claimed and the High Court's judgment is, therefore, correct. He urged that, in view of the relevant facts and circumstances in the case, as is evident by the assessment order, the claim of the petitioner that its purpose is charitable cannot be accepted. Since the High Court has not adverted to the facts of the case relied upon by learned counsel for the parties and has not expressed its opinion on the other aspects of the case, we are of the view that the case should go back on remand to it for fresh decision. During the pendency of the case in this court, the parties have filed further affidavits. It will be open to them to file additional affidavits and other materials in support of their respective cases. This, however, they should do within one month from today, so that the case which is an old one may be disposed of expeditiously.

Civil Miscellaneous Petition No. 11315 of 1989 has not been pressed and is, therefore, dismissed; and Writ Petition No. 265 of 1980 is permitted to be withdrawn as prayed for on behalf of the petitioner. Civil Appeal No. 43 of 1982 is allowed and the case is remitted to the High Court for fresh decision in the light of the observations made above. There will be no order as to costs of this court. In view of the urgent nature of the case, the High Court is requested to dispose of the writ petition as expeditiously as possible.

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