



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 14TH DAY OF FEBRUARY, 2024
BEFORE
THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ
WRIT PETITION NO.100921 OF 2024 (LB-RES)**

BETWEEN:

THE PRUDENCE FOUNDATION (REGISTERED TRUST),
NO. 17/45, 3RD CROSS,
PATEL NAGAR BALLARI,
BY TIS SECRETARY,
SRI. SANTOSH MARTIN S/O. YMT MARTIN,
AGE: 56 YEARS, OCC: SECRETARY,
R/O. NO.7, MARTIN ROAD, BRUCEPET,
BALLARI-583 101.

...PETITIONER

(BY SRI. T.M. NADAF &
MISS. GAYATRI S.R., ADVOCATES)

AND:

1. THE STATE OF KARNATAKA,
DEPARTMENT OF URBAN DEVELOPMENT
BY ITS PRINCIPAL SECRETARY
VIDHANA SOUDHA,
DR. AMBEDKAR VEEDHI, BENGALURU-01.
2. THE BALLARI CITY CORPORATION,
R/BY ITS COMMISSIONER
GADAGI CHENNAPPA CIRCLE (ROYAL CIRCLE),
BALLARI-583101.
3. THE DIVISIONAL COMMISSIONER,
DIVISIONAL OFFICE-1
THE BALLARI CITY CORPORATION,
GADAGI CHENNAPPA CIRCLE (ROYAL CIRCLE),
BALLARI-583101.

...RESPONDENTS

(BY SRI. ASHOK KATTEMANI, AGA FOR R/STATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE





NATURE OF CERTIORARI QUASHING THE IMPUGNED UNDATED AND UNNUMBERED NOTICE ISSUED BY THE 3RD RESPONDENT VIDE ANNEXURE-E.

THIS PETITION IS COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner is before this Court seeking for the following reliefs:
 - a. *Issue a writ in the nature of certiorari quashing the impugned undated and unnumbered notice issued by the 3rd respondent vide Annexure-E.*
 - b. *issue such other writ or order as deemed fit in the interest of Justice and Equity.*
2. The petitioner-Trust claims to be running a Higher primary school of Ballari City. The respondent - Corporation having raised a demand of property tax in respect to the said property, the petitioner is before this Court seeking for the aforesaid reliefs.
3. Sri.T.M.Nadaf, learned counsel for the petitioner would submit that in terms of Section 110 (1) (i) of the Karnataka Municipal Corporations Act, 1976 (for short, 'the Act'), there is an exemption to educational



institutions from making payment of property tax and as such, no demand could have been made vide the impugned unnumbered notice and the same is required to be quashed by allowing the Writ Petition.

4. Sri.C.V.Angadi, learned counsel for the Corporation would rely on the decision of this Court in the case of ***Hindustan Aeronautics Limited vs. State of Karnataka, Department of Housing and Urban Development¹*** to contend that an application has to be made by the petitioner for grant of exemption and without such an application being made and exemption granted, the petitioner cannot claim exemption from making payment of property tax.
5. Heard Sri.T.M.Nadaf, learned counsel for the petitioner and Sri.C.V.Angadi, learned counsel for the respondents – Corporation and perused the papers.

¹ (2011) 1 Kar.L.J. 564



6. The decision in ***Hindustan Aeronautics Limited*** was one which is rendered in terms of the General Exceptions under Section 110 (1) (j) of the Act which related to buildings or lands belonging to Central Government or State Government. In terms of the said provision, there is no complete exemption to a Central Government or a State Government. The exemption is qualified in terms of the building being used for the purposes of the Government which would be exempted and if the property is used for residential or commercial purposes, even the Central Government or the State Government would be required to make payment of property tax. It is in those circumstances that this Court has held that an application has to be made for grant of exemption since there has to be an application of mind to determine if the concerned property since the usage of the concerned property would be amenable for exemption or not.



7. Section 110 (1) (i) of the Karnataka Municipal Corporations Act, 1976 is reproduced hereunder:

*(i) building or lands exclusively used for,-
(a) students hostels which are not established or conducted for profit;
(b) educational purposes by recognised educational institutions;
(c) the offices of Labour Associations registered under the Trade Union Act, 1926 and belonging to such Association;*

8. An examination of the above would indicate that there is a general exemption from making payment of taxes in respect of building which is used for educational institution or purpose is concerned. There would be no requirement for application of mind to ascertain if the exemption is available to educational institution or not. It is only when the Corporation were to claim that the concerned building has been used for the purpose other than educational purposes or a purpose which is not incidental to educational purposes that a claim for property tax can be made.



9. In the present case, there is no such assertion which has been made except to contend that an exemption application ought to have been filed by the petitioner which as aforesaid would not be applicable to the General Exemptions granted under Section 110 (1) (i) of the Act. In that view of the matter, I pass the following:

ORDER

- i) A Writ Petition is allowed.
- ii) A certiorari is issued, undated and unnumbered notice issued by respondent No.3 vide Annexure-E are quashed.
- iii) Since it has been held that the exemption would be applicable in totality to the petitioner's premises, the petitioner would not be liable to make payment of any municipal property taxes on premises used for educational purposes.
- iv) Liberty is, however, reserved to the corporation to claim such property tax if the property was



used other than for educational purposes by
issuing necessary notice in that regard.

Sd/-
JUDGE

AM
List No.: 1 Sl No.: 61