

Supreme Court of India

Christian Children Fund Inc vs Municipal Corpn. Of Delhi on 12 May, 1994

Equivalent citations: 1994 SCC (4) 337, JT 1994 (4) 36

Author: P Sawant

Bench: Sawant, P.B.

PETITIONER:

CHRISTIAN CHILDREN FUND INC.

Vs.

RESPONDENT:

MUNICIPAL CORPN. OF DELHI

DATE OF JUDGMENT 12/05/1994

BENCH:

SAWANT, P.B.

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SAWANT, P.B.

KULDIP SINGH (J)

CITATION:

1994 SCC (4) 337 JT 1994 (4) 36

1994 SCALE (2) 921

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by SAWANT, J.- The appellant-organisation has been established with the object of promoting the welfare of the orphans and the needy children throughout the world. It is founded with the help of voluntary contributions collected from all over the world. It has branches in many countries. The appellant also funds other organisations with similar charitable objectives +From the Judgment and Order dated 23-5-1984 of the Delhi High Court in C.W. No. 1351 of 1984 such as orphanages, educational institutions and other institutions meant for the handicapped children irrespective of religion, caste, creed and sect. In this country also there are many charitable institutions for child welfare which are in receipt of funds from the appellant. The Delhi branch of the appellant is situated in its own premises on the 5th floor of the building known as "Padma Palace", 86, Nehru Place, New Delhi.

2.Under Section 115(4) of the Delhi Municipal Corporation Act, 1957 (the 'Act') the premises occupied and used exclusively by an Organisation for a charitable purpose are exempted from

property tax. The relevant provisions of Section 115(4) are as follows:

"(4) Save as otherwise provided in this Act, the general tax shall be levied in respect of all lands and buildings in Delhi except-

(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;"

3.On 18-6-1977, the appellant-organisation purchased the present premises to locate its centre of activities. On 13- 3-1979, the respondent Corporation issued a notice under Section 126 of the Act proposing to fix the rateable value of the said premises for the purpose of levying property tax. The appellant filed objections to the said notice before the Assessor and Collector on 26-4-1979 and prayed for exemption from the tax under the aforesaid provisions of Section 115(4) on the ground that the premises in question were being exclusively used and occupied for charitable purpose. On 6-6-1983, the Corporation turned down the request for exemption by a non-speaking order. On 13-12- 1983 the appellant prayed before the Assessor and Collector for reconsideration of the decision and in particular, pointed out that other organisations in identical circumstances were exempted under the said provisions. On 14-3-1984, the said request was again turned down on the ground that the premises occupied by the appellant for office purposes could not be said to be the premises exclusively occupied and used for charitable purpose. Against the said decision, on 27-3-1984, the appellant made a representation to the Commissioner of the Corporation requesting for revision of the decision. The Commissioner did not give any hearing to the appellant. On the contrary, the decision on the revision application was communicated by the Assessor and Collector by his letter of 1-5-1984 as follows:

"Dear Sirs, Please refer to your letter No. BCD/1240NG/ND/1401 dated 12-4-1984 addressed to Commissioner, Municipal Corporation of Delhi.

2.We should have liked to help your clients in the matter of grant of exemption if the law should have permitted. Unfortunately, that is not the case. We are, therefore, unable to grant exemption to the property of the Christian Children's Fund as the case is not covered under Section 115(4) of the DMC Act for grant of exemption.

Yours faithfully, sd/-

(M.P. Sharma) Assessor & Collector"

4.The appellant, therefore, approached the High Court by filing a writ petition under Article 226 of the Constitution and the High Court by the impugned decision dismissed the writ petition. The decision of the High Court contained in a short paragraph is as follows:

"This petition seeks an exemption from the operation of the house tax and general tax leviable on the property which it owns at Nehru Place on the ground that the building is exempt as it is used by a charitable body. We find that the Assessor & Collector had informed the petitioner that the building was not exempt from the general tax because the building was not being used for a charitable purpose. This information is contained in two letters dated 6-10-1983 and 14-3-1984 issued by the Assistant Assessor and Collector and Joint Assessor and Collector, M.C.D. The second letter indicates that the exemption was being refused because the building did not qualify under Section 154 (sic) of the Act. We agree with this view. The section requires that the land or building or the portion of the land or building which is used for charitable purpose is exempt and no other. As the building is being used for office purpose, the exemption could not be granted. The petition is dismissed."

5.It is obvious from the reasons given both by municipal authorities as well as by the High Court that the ground on which the request for exemption has been rejected is that the building is not used for charitable purpose because it is being used for office. We have quoted the relevant provisions of Section 115(4) above. All that the provisions require is that, for exemption, the lands and buildings or portions of lands and buildings should be exclusively occupied and used for public worship or by a society or body for a charitable purpose and that the society or body is supported wholly or in part by voluntary contributions and that it should apply its profits, if any, or other income in promoting its objectives and that it should not pay any dividend or bonus to its members. The explanation elucidates what the "charitable purpose" means. It defines charitable purpose to include relief to the poor, education and medical relief but does not include a purpose which relates exclusively to religious teaching. There is no dispute that the appellant-organisation is a charitable Organisation and that the purpose for which the appellant- organisation is established and run is a charitable one within the meaning of the said provision. However, the only ground on which the appellant is denied the exemption is that the premises in question are being used by the appellant for its office, which according to the municipal authorities and the High Court cannot be said to be used for charitable purpose. We are afraid that both the municipal authorities and the High Court have committed an obvious error of interpreting the provisions of Section 115(4) narrowly and unrealistically. Every Organisation established for a charitable purpose requires some premises to run its administration. Without an administrative office, it is not possible for an Organisation to run and manage its charitable activities. The extent of the premises required to run the administrative office would depend upon the nature and the size of its activities. Hence the premises required by an Organisation for its administrative office are an essential and an integral part of its charitable activities. Sometimes the administrative office of such organisations may be located where the charitable activity or activities are carried on and sometimes it is located away from such place depending upon the availability of the premises and convenience. So long as the premises in which the administrative office of the charitable Organisation is carried on are exclusively used and occupied by its office, the premises would be ones covered by the exemption provided under the said

provisions. To hold otherwise, viz., that it is only the premises where actual charitable activity is carried on alone is qualified for the exemption is to be irrational. The interpretation placed by the municipal authorities and also unfortunately by the High Court on the said provisions has, therefore, to be rejected.

6.The appeal is, therefore, allowed and the decision of the High Court is set aside. We direct the municipal authorities to consider the application of the appellant in the light of what is held above. It will be open for the municipal authorities to satisfy themselves that the premises in question are exclusively used and occupied for running the office for the charitable activities of the appellant-organisation and that they are not used either wholly or in part for any other purpose. If they come to the conclusion that the use and occupation of the said premises is exclusively for the office of the Organisation from where its charitable activities are administered, the appellant's request for exemption cannot be rejected.

7.The appeal is allowed accordingly. In the circumstances of the case, however, there will be no order as to costs.