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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6735-2021(O&M)
Date of Decision:09.09.2025

MUNICIPAL COUNCIL, ZIRAKPUR THROUGH ITS EXECUTIVE OFFICER

....Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr.Tanvir Singh Attariwala, Advocate,
for the petitioner.

Mr. Amit Kumar Goyal, Addl. A.G, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 17.12.2019 (Annexure P-5) passed by the Divisional Commissioner, Rupnagar, whereby the order dated 09.02.2016 (Annexure P-3) passed by the Additional Deputy Commissioner (Civil)-Cum-Collector, SAS Nagar has been affirmed.

2. Learned counsel appearing on behalf of the petitioner submitted that the issue involved in the present case is whether the petitioner, which is the Municipal Council, is entitled for exemption from stamp duty by virtue of Section 3(1) of the Indian Stamp Act, 1899 (hereinafter referred to as 'the Act') and also under the Notification dated 20.02.1981 (Annexure P-8) issued by the Government or not.



3. Learned counsel submitted that there was a colony which was developed by a developer in the name of Pine Homes (U.S Estate) and out of the total land where the colony was developed, there was a land to be used for common purposes i.e. for the purpose of maintenance of roads, parks, street lights etc. regarding which a transfer deed was executed by the developer in favour of the petitioner-Municipal Council vide Annexure P-2 on 01.09.2015. On the aforesaid transfer deed, no stamp duty or any other charges were paid at all and thereafter, upon notice being issued, the transfer deed has now been impounded under the Stamp Act on the ground that neither the registration fee was paid nor the other charges pertaining to the social security fund, additional social infrastructure cess and infrastructure development fee and as such shortage of an amount of Rs. 71,37,223/- has been found towards stamp duty because no stamp duty or any other aforesaid charges were paid at all and the same was to be recovered from the petitioner. He submitted that the impugned order dated 09.02.2016 (Annexure P-3) was passed by the learned Collector, SAS Nagar, Mohali, whereby the aforesaid amount of Rs. 71,37,223/- has been fastened upon the petitioner along with interest on the ground that so far as the petitioner-Municipal Council is concerned, the aforesaid stamp duty and other aforesaid charges are also liable to be paid by the petitioner-Municipal Council. He submitted that by virtue of Section 3(1) of the Act, there is an exemption in favour of the Government and the petitioner is a Municipal Council which is an instrumentality of the State and a Public Sector Undertaking that also works under the supervision of the Government and therefore, it is a part of the Government and since it is a part of the Government, the Municipal Council, which is a statutory body, is also entitled for exemption thereof. He further submitted that similarly when Notification dated 20.02.1981 (Annexure P-8) was issued, an exemption was granted with regard to registration fee that will



not be chargeable pertaining to instruments of transfer of land relating to instruments of sale or of gift executed by or on behalf of or in favour of a Gram Panchayat or a Municipal Committee and therefore by virtue of the aforesaid notification, the Municipal Committees are also exempted from registration fee and hence, no such registration fee was to be paid by the petitioner-Municipal Council at the time of the execution of the transfer deed. He submitted that his case is covered by the aforesaid proviso to Section 3(1) of the Act and also the aforesaid notification Annexure P-8 and therefore, the order passed by the learned Collector is liable to be set aside. He further submitted that the petitioner filed appeal against the aforesaid order and the same was also dismissed by the Commissioner, Rupnagar Division, Rupnagar vide Annexure P-5 dated 17.12.2019 on the same ground and therefore, the aforesaid appellate order is also liable to be set aside.

4. On the other hand, Mr. Amit Kumar Goyal, learned Additional Advocate General, Punjab submitted that the petitioner is a Municipal Council and it may be a part of the local authority or it may be working under the Government but a Municipal Council cannot be said to be a Government and therefore, the proviso to Section 3(1) of the Act under which the petitioner is claiming exemption is not applicable to the present case and that was the precise reason for fastening the liability upon the petitioner by way of the order passed by the learned Collector and upheld by the learned Commissioner, Rupnagar Division, Rupnagar. In this regard, he referred to a judgment of Hon'ble Supreme Court in *Union Public Service Commission Versus Dr. Jamuna Kurup and others, (2008) 11 SCC 10* wherein it was observed in para No. 16 that a Municipal Corporation is not a Government and the municipal employees are not government servants governed by Articles 309 to 311 of the Constitution of India. He submitted that the Municipal Committee



although may be created under an Act of Legislature but is not a Government and therefore, no exemption can be granted. So far as the Notification (Annexure P-8) is concerned, he submitted that the aforesaid notification was meant for the transfer deeds/sale deeds etc. on behalf of or in favour a Gram Panchayat or Municipal Committee but it was only for a specific purpose of construction of roads or buildings of schools, colleges, hospitals and dispensaries on such land whereas the transfer of land in the present case is not for the aforesaid purpose and therefore, the petitioner cannot take the benefit of the aforesaid notification as well and therefore, the writ petition is liable to be dismissed.

5. I have heard the learned counsel for the parties.

6. The sole issue involved in the present case is as to whether the petitioner which is Municipal Council is entitled for exemption under the proviso to Section 3(1) of the Act and also under the Notification dated 20.02.1981 (Annexure P-8).

7. Before proceeding further, it will be just and proper to reproduce both the aforesaid proviso to Section 3(1) of the Act and notification dated 20.02.1981 (Annexure P-8) as under:-

*“Provided that no duty shall be chargeable in respect of
(1) any instrument executed by, or on behalf of, or in favour of, the
Government in cases where, but for this exemption, the Government
would be liable to pay the duty chargeable in respect of such
instrument.*

Notification dated 20.02.1981 (Annexure P-8)

**“GOVERNMENT OF PUNJAB
DEPARTMENT OF REVENUE AND REHABILITATION
(REGISTRATION)**



Notification

The 20h February, 1981

S. O. S./C.A. 16/9/85, 78 and 79/Amd./81:

In exercise of the powers conferred under sections 78 and 79 of the Registration Act, 1908 (Central Act No. XVI of 1908) and all other powers enabling him in this behalf, the Governor of Punjab, is pleased to make the following amendments in the Government of Punjab, Department of Revenue and Rehabilitation, Registration) Notification No. S.O./25/C. A.16/1908/Ss-78-79/80/6056, dated the 15th April, 1980, namely :-

AMENDMENT

In the said notification, under the heading 'TABLE OF REGISTRATION FEES', after the existing provisos to Article I, the following proviso shall be added namely :-

"Provided further that no registration fee shall be chargeable on the following instruments of transfer of land :-

- (1) Instrument of sale or of gift executed by or on behalf of or in favour of a Gram Panchayat or a Municipal Committee;*
- (2) Instrument of a sale or of gift executed in favour of a charitable Institution;*
- (3) Instrument of sale executed by Government; and*
- (4) Instrument of exchange executed by the Gram Panchayat with any person,*

for the purpose of construction of roads or buildings of schools, colleges, hospitals and dispensaries on such land.

Note:- Chairtable Institution means Institution established for chairtable purpose within the meaning of the Chairtable Endowment Act, 1890 (Central Act of 1890).

K.D.VASUDEVA

***Secretary to Government, Punjab
Department of Revenue and Rehabilitation***



8. Taking up the first proviso to Section 3(1) of the Act for consideration, a perusal of the aforesaid would show that the exemption from stamp duty is for an instrument where the same is made in favour of 'Government'. So far as the present petitioner is concerned, who is claiming exemption under the aforesaid provision, the same is only a Municipal Council which, although recognized by an Act of Legislature but it cannot be termed as a 'Government'. A Municipal Council may be an organ of the local self-government, operating as a body which can be under the supervision of the Government but by no means it can be said that a Municipal Council is Government. Reliance made by the learned Additional Advocate General, Punjab on the judgment of Hon'ble Supreme Court in *Union Public Service Commission Versus Dr. Jamuna Kurup and others (Supra)* is well placed. Therefore, clearly the petitioner is not entitled for grant of exemption on the basis of the aforesaid provision of Section 3(1) of the Act as reproduced above.

9. So far as the second issue pertaining to the claiming of exemption under Notification (Annexure P-8) issued by the Government of Punjab is concerned, the same was issued in exercise of powers conferred under Sections 78 and 79 of the Registration Act, which provides for exemption from registration fee to the effect that no registration fee shall be chargeable on an instrument of a transfer of land pertaining to instrument of sale or of gift executed by or on behalf of or in favour of a Gram Panchayat or a Municipal Committee. However, the aforesaid exemption is only for the purpose of construction of roads or building of schools, colleges, hospitals and dispensaries on such land, which is clear from the aforesaid notification. In other words, the exemption can be granted only when the transfer of land is for the aforesaid purpose. However, in the present case, a perusal of para No.3 of the writ petition would show that it has been averred by the petitioner that



the petitioner had taken over the possession of the land for common purposes of a colony from one Pine Homes (U.S Estate) for the purpose of maintenance of roads, parks, street lights etc. Therefore, clearly the transfer of land is for the purpose of maintenance only and it is not for the purpose of construction of any road or building etc. A perusal of the Notification (Annexure P-8) very clearly shows that if the purpose of transfer is for construction only, then exemption is available, whereas admittedly in the present case it was not for construction but for only maintenance and therefore, the case of the petitioner would not fall within the exemptions so provided for in Annexure P-8.

10. In view of the aforesaid facts and circumstances, the present petition is dismissed. Interim order granted by this Court dated 23.03.2021 is hereby vacated.

09.09.2025

(JASGURPREET SINGH PURI)

rakesh

JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No