

instructions were, however, not produced at the hearing of the petition and it is nobody's case before us that those instructions can in any way modify the definition of the word "land" as given in the Act.

As a result of the above, I hold that *banjar jadid* and *banjar qadim* land of the petitioner, mentioned in annexure A-4 of the petition, cannot be taken into account while considering the surplus area under the Act. The order of the revenue authorities holding to the contrary are quashed. Let an appropriate writ issue in the matter. The petitioner shall be entitled to recover his costs from the respondent. Counsel's fee Rs. 75.

MEHAR SINGH, J.—I agree.

K.S.K.

Nemi Chand
Jain
v.
The Financial
Commissioner,
Punjab and
another
Khanna, J.

Mehar Singh, J.

CIVIL MISCELLANEOUS

Before D. Falshaw, C.J., and Harbans Singh, J.

ARUNA RANI,—*Petitioner.*

versus

THE DISTRICT BOARD, AMRITSAR AND ANOTHER,—
Respondents.

Civil Writ No. 1186 of 1960.

Constitution of India (1950)—Article 276(2)—Interpretation of—Tax on professions, trades, callings and employments—Whether can be imposed by the State, municipality, district board, local board or other local authority, each up to a maximum of Rs. 250 per annum or the aggregate limit of such tax imposed by any one or more of them cannot exceed Rs. 250 per annum.

Held, that the words "the total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority"

1963

Nov., 18th.

in article 276(2) of the Constitution mean that a tax of up to Rs. 250 per annum can be imposed by any one of the authorities mentioned and not that the total sum payable by any person on account of taxes of this kind levied by the State and local bodies cannot exceed Rs. 250 per annum.

Case referred by Hon'ble Mr. Justice Harbans Singh, on 27th August, 1963 to a Division Bench for decision owing to an important question of Law involved in the case. The Division Bench consisted of Hon'ble Mr. Chief Justice D. Falshaw and Hon'ble Mr. Justice Harbans Singh. The case was finally decided by a Division Bench on 18th November, 1963.

Petition under Articles 226 and 227 of the Constitution of India, praying that a writ in the nature of Mandamus or any other appropriate writ, order or direction be issued restraining respondent No. 1 from recovering the amount of tax of Rs. 200 imposed under notification No. 5986-LB-55/44976, dated 1st August, 1955, for the year 1959-60.

BHAGIRATH DASS AND B. K. JHINGAN, ADVOCATES, for the Petitioner.

S. M. SIKRI, ADVOCATE-GENERAL AND NAGINDER SINGH, ADVOCATE, for the Respondent.

JUDGMENT :

(Falshaw, C.J.) FALSHAW, C.J.—This writ petition under Article 226 of the Constitution which has been referred to a larger Bench by my learned brother Harbans Singh, J., raises the question of the interpretation of Article 276(2) of the Constitution which reads—

“The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two hundred and fifty rupees per annum :”

The petition was filed in July, 1960, by Shrimati Aruna Rani who is a resident of Amritsar and also one of two partners in the registered partnership firm called Ashok Textile and Twisting Mills of Verka, which is in the district of Amritsar and was at the time when the petition was instituted within the jurisdiction of the Amritsar District Board. Section 30 of the Punjab District Boards Act of 1883 empowers a District Board with the previous sanction of the State Government to impose any tax which the State Legislature has power to impose in the State under the Constitution. By a notification, dated the 1st of August, 1955, issued under this section the District Boards of Amritsar was empowered to impose a tax at the rates given in the schedule on every person carrying on any trade, profession, calling or, employment in the area subject to the authority of the Board for not less than 120 days in the aggregate during a financial year, with the proviso that the tax was not to be leviable on co-operative societies or persons mainly dependent on agriculture for their livelihood, or with an income less than Rs. 400 p.a.

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The tax is fixed at Rs. 3. p.a., in respect of persons following some rather humble occupations listed in the schedule and graded scale of taxation was made applicable to persons carrying on any trade, profession, calling or employment rising up to Rs. 200 on persons earning more than Rs. 10,000.

Under this notification a demand was served by the District Board on the firm M/s. Ashok Textile and Twisting Mills for professional tax for 1958—60. After some further proceedings, the demand was made for Rs. 200 for these years.

In 1956, the Punjab Profession, Trades, Callings and Employments Taxation Act, VII of 1956, came into existence by which the State imposed a similar

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tax on persons carrying on professions or businesses or employed in the State. The liability to pay the tax imposed was fixed from January, 1960 and the tax was again graded, being leviable on incomes of Rs. 6,000 p.a. or more and with a maximum tax of Rs. 250. The petitioner as an individual was called on to pay the tax under this Act and she paid Rs. 250 for the current financial year on the 16th of February, 1960.

The writ petition was filed in July, 1960, with a prayer for an order restraining the District Board, Amritsar, respondent No. 1, from realising the tax which was being demanded from M/s. Ashok Textile and Twisting Mills. The main ground was that in view of the provisions of Article 276(2) of the Constitution, which I have set out above, the petitioner having already paid Rs. 250 to the State under the Act of 1956 in respect of the year 1959-60, could not be called on to make any further payment to any authority by way of a tax of this nature. Objection was also taken on the ground that the firm was not a person on whom the District Board could levy the tax.

On behalf of the District Board a technical point was raised, based on the fact that since the petition was instituted the Punjab Government had by notification abolished the District Board of Amritsar. This is in fact the result of the enactment of the Punjab Panchayat Samitis and Zila Parishads Act, III of 1961, by which the bodies called Zila Parishads have taken, or are intended to take, the place of the existing District Boards, and the change has actually taken place in the district of Amritsar. Section 120 of this Act provides that all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the District Board immediately before the constitution of the Zila Parishad concerned for any matter in relation to the district may

be continued or instituted by or against the Zila Parishad. In the circumstances all that is required is our permission, which is granted, for the Zila Parishad to take the place of the District Board in opposing the petition.

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Neither party was able to cite any authority in which Article 276(2) of the Constitution has been interpreted in a matter of this kind. The provisions of Articles 276(1) are to the effect that notwithstanding anything in Article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income. Then follows the ceiling of Rs. 250 p.a. on any such tax imposed by the State or by any of the bodies mentioned in Article 276(1), and the question is whether the State and the other bodies can in appropriate cases each impose a tax of up to Rs. 250 p. a., or whether the total sum payable by any individual on account of taxes of this kind levied by the State and local bodies cannot exceed Rs. 250. In my opinion there can be little doubt from the wording that the first of these interpretations is correct. It seems to me that the words "the total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority" must mean that a tax of up to Rs. 250 can be imposed by any one of the authorities mentioned and if the intention had been on the lines supported by the learned counsel for the petitioner, the wording would have been something like this, "the total amount payable in respect of any one person by way of tax on professions, trades, callings or employments shall not exceed Rs. 250 p. a. whether imposed by the State, a municipality, district board, local board or other local authority".

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The same person may be carrying on business in various districts of the State falling within the areas governed by different District Boards or local bodies, and the interpretation supported by the State and the Zila Parishad in this case will not operate as harshly as seems likely at first sight since it is hardly likely to be applied in more than one locality to a professional man or an employee, and in case of businesses carried on by one person in different localities it is to be presumed that where the tax is imposed by a local body it will be on the income of the person earned in the area of the particular local body imposing the tax. Such being the case there will not be many persons who will find themselves liable for the maximum in each place where they are taxed.

The other point raised before us was that the notice issued by the District Board was defective in that it was issued to a firm and not a person. On the whole, I am of the opinion that this question should be left undecided in the present petition because in the first place the referring order of my learned brother makes it clear that this point was not being very seriously pressed and that the real object of the petition was to obtain a declaration that nobody would be liable to pay more than Rs. 250 p.a. in respect of this kind of tax, however, many demands were made by different authorities, and in the second place we are being asked to quash the demand made against the firm, M/s. Ashok Textile and Twisting Mills, without the firm having joined as a petitioner, and at the instance of an individual, who has not been called upon to pay the tax as such. The result is that I would dismiss the petition, but leave the parties to bear their own costs.

Harbans Singh, J.

HARBANS SINGH, J.—I agree.

B. R. T.