



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Request of BSNL to exempt from property tax - Interim order in W.P.(C) 5422/10 dated 03/09/2010 - Complied with - Orders issued.

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LOCAL SELF GOVERNMENT (RD) DEPARTMENT

GO (Rt) No.2640/2012/LSGD

Dated, Thiruvananthapuram, 19/09/2012

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Read: 1. Interim order in W.P.(C) No.5422/10 (C) dated 03/09/2010

2. Lr.No.Ms/Legal/6-3/2010-11/12 dated 21/10/2011 from the Chief General Manager, BSNL.

**ORDER**

Pursuant to the interim order dated 03/09/2010 of the High Court in W.P.(C). 5422/2010 filed by BSNL, the Chief General Manager, BSNL requested the Government to consider the Ext.P9 in the W.P.(C) 5422/2010 (representation dated 04/01/2010 of the CGM, BSNL).

The interim order is to consider the above said representation and take appropriate decision in the matter after affording an opportunity of being heard, if necessary. The prayer in the representation regarding the payment of property tax-the BSNL claims that they are not bound to pay property tax-by virtue of being a Government owned company. Further, the Local Self Government Institutions are not issuing permits, completion/use certificates as a pressure tactic in order to force them to pay the property tax.

The contention of the BSNL is that as per statutes, there is no need for permits from Local Self Government Institutions for erection of telecommunication towers of BSNL and that their towers could not be included for paying property tax. The Government as per Circular No.11414/RD2/2009/LSGD dated 30/10/2010 have exempted BSNL, being a Government company, from acquiring permit for erecting mobile towers.

As per Circular No.39457/RC2/10/LSGD dated 19/09/2011 Government instructed Local Self Government Institutions to desist from demanding property tax on BSNL buildings which are in the name of HE the President of India. The Circular goes on to say that the buildings that are not in the name of HE President of India but in the name of BSNL, could be taxed.

In the above back drop, the Chief General Manager, BSNL was heard on 03/04/2012. In view of the points raised by the petitioner at the time of hearing especially regarding the applicability of Indian Telegraph Act 1885, Government examined the matter in detail and found that there is no provision in the said Act exempting BSNL mobile tower from paying property tax.

Moreover, items (iv) in sub section (2) (a) of section 203 of Kerala Panchayat Raj Act 1994 empowers the Grama Panchayath to levy building tax on mobile towers. Sub section (2) (b) thereof further empowers Government to prescribe the rates of taxes on item (iv) above by notification. Kerala Municipality Act 1994 also empowers same. BSNL has not been given exemption from paying property tax under the above Acts.

In this circumstances, the request made by the Chief General Manager, BSNL in Ext.P9 representation to exempt the BSNL Towers from property tax is devoid of any merit and hence the same is rejected. Accordingly orders contained in the interim order of the High Court read as 1st paper above complied with.

By Order of the Governor,  
A.R.SURESAN  
Deputy Secretary to Government.

To

The Chief General Manager, BSNL  
The Director of Urban Affairs, Thiruvananthapuram  
The Director of Panchayats, Thiruvannanthapuram  
The Chief Town Planner, Thiruvannanthapuram  
All Deputy Director of Panchayats  
The Regional Joint Directors, Urban Affairs Department  
The Secretaries of all Panchayats (through Director of Panchayats)  
The Secretaries of all Municipalities (through Director of Urban Affairs)  
The Exeutive Director, IKM (for publishing in the website)  
✓ The Executive Mission Director IKM (for publication in official website)  
PS to Minister (LSGD)  
PA to Principal Secretary (LSGD)  
Stock file/Office copy.

Forwarded/By Order

  
Section Officer

