

Research note on Shariat Petition No.30/I/1994.

Through this petition the petitioner has contended that he is residing in his own house no part of which has been given on rent, but the Excise and Taxation Department, Punjab has imposed tax on his house. He states that it is repugnant to the injunctions of Islam. He has not mentioned any law or rules under which tax has been imposed on his house. He has however, promised to produce the concerned rules in the next hearing.

So far the imposition of tax by an Islamic State is concerned, this Court has already held in its judgment on Shariat Petition No.11/L/1990, that an Islamic State can impose tax other than Zakat and Ushar on the properties of its subject if it requires funds for genuine purposes such as public interests, development, and defence.

The petitioner has further challenged sub section (2) of section 4 of the Punjab Urban Immoveable Property Tax Act, 1958 on the ground that it is repugnant to the injunctions of Islam. He argues that retired servants of the Provincial Govt. are exempted from the property tax of his own house in which he is residing whereas the retired servants of the Federal Govt. are deprived from this concession, which is an obvious discrimination and is repugnant to the injunctions of Islam. It is also to be mentioned that the same concession is available to the employees of the Govt. of Sind, N.W.F.P. and Baluchistan, but there is no such law in the Federal Legislative List and as such the employees of the Federal Govt. are not entitled to such concession.

**The Punjab Urban Immoveable Property Tax Act, 1958**

being a fiscal law has not so far been examined by this Court.

According to Islamic concept of justice, people of the same profession and job are not treated differently unless there is any ground of discrimination among them. All the members of the society are equal and possess equal rights regardless of their language, colour, territory and creed. The Holy Quran states:

يا ايها الناس انا خلقناكم من ذكر و انتى و جعلناكم  
سعوا و قبائل لتعارفوا ان اكرمكم عند الله اتقاكم  
ان الله علىم خير . ( الحرات ١٣:٢٩ )

1. "O Mankind ! We have created you from a male and female. We have made you nations and tribes that ye might know one another. The noblest of you in the sight of Allah is the one, who is most pious among you. Lo ! Allah is knower aware." (49:13).

ان الله بامرکم بالعدل

2. "Allah orders you to do justice." ( 16 : 90 )

يا ايها الناس الا ان ربيكم واحد وان اناكم واحد الا لا  
فضل لعربي على اعجمي ولا لعجمي على عربي ولا لاحمر على  
اسود ولا لاسود على احمر الا بالتقوى .  
( مسند لامام احمد بن حنبل ج ٥ ، ص ٢١١ )

3. " O People ! Be aware, your God is one, your father in one. There is no superiority for an Arab over a non Arab, and for a non Arab over an Arab, nor for the white over the black nor for the black over the white except in God-consciousness."

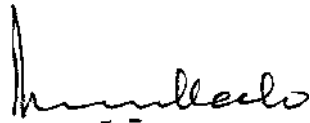
The Holy Prophet said,

الناس سواصة كاسنان المشط

4. " The people are like the teeth of a comb."  
( Sunan al-Kubra, Volume, Page 186 )

It has narrated on the authority of Anas bin Malik that some Ansar came to the Holy Prophet and requested that Hazrat Abbas may be exempted from fidya (tax). The Holy Prophet said, "By Allah you will \*\*\*\* not exempt one Dirham from him." (Bukhari, Page 219)

It is concluded from the above discussion that Islam has given great importance to the equality among the people. There is no any ground of discrimination between an employee of Provincial Government and an employee of Federal Government in granting him exemption from property tax of his own house in which he himself resides after retirement from service. It is, therefore, proposed that necessary amendment may be made in section 2 or 4 of the Punjab Urban Immoveable Property Tax Act, 1958 so as to extend such exemption to the retired employees of Federal Government.

  
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