

Complaint No. C-485/LOK/2010

Lokayukta on its own motion in Re:
Ms. Preeti Behn, Original Informant
And
Sh. Amrish Singh Gautam, MLA - Respondent

Present:

Sh. Chetan Lokur, Advocate on behalf of Amicus Curiae
Ms. Praveena Gautam, Counsel for the Respondent
Sh. Sanjay Yadav, Executive Engineer (HQ), MCD

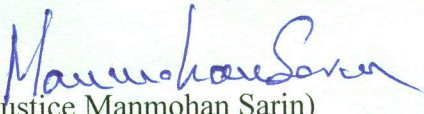
This is a case where the property of the Respondent, Public Functionary is located in a re-settlement colony where construction only as per the plan is permissible. A notice u/s 7 read with 2(b) was issued to the Respondent, Public Functionary stating that there was unauthorized construction of 109.74 sq.mtrs. without the sanctioned plan out of which 73.16 sq. mtrs. is compoundable but 36.58 sq. mtrs on second floor is non-compoundable and was required to be demolished.

Initially Respondent filed an application for directions which was disposed off vide order dated 09-02-2011. Although the Respondent even as a purchaser of the premises in a re-settlement colony would have obtained from the original allottee, the allotment letter and the standard plan as documents of title, to put the controversy to an end, MCD was directed to supply a copy of the standard plan applicable to the re-settlement colony.

Respondent has filed reply claiming two properties i.e. 160 & 161 each having 22.5 sq. yrds. of land i.e. 45 sq. yrds. in all. The Respondent has carried out the renovation and made alterations in the second floor and approached the DDA and MCD for sanction. However, the response has been that there is no legal provision available in the master plan for any sanction or approval. The Respondent has also moved application for dropping of the proceedings. In short the submissions made in the application by the counsel are that Respondent being elected as Dy. Speaker of Delhi Legislative Assembly on 23-12-2008, was excluded from the

jurisdiction of the Lokayukta. The notice u/s 2(b) read with section 7 of the Act for an inquiry against the respondent was received on 07-12-2010 i.e. when the Respondent was already notified as Dy. Speaker. A reference is made to section 2(m)(iii) of the Act which excludes from the definition of 'Public Functionary' a person with a rank of Minister who is either the speaker or the Dy. Speaker of the Legislative Assembly. It is thus contended that proceedings sought to be initiated against the Respondent are nonest and per-incuriam. Sh. Lokur submits that Respondent continues to be an MLA even as Dy. Speaker. The exclusion of the Speaker is only from the category of a person holding the rank of Minister and being a Dy. Speaker. It does not exclude MLAs who are Ministers. Sh. Lokur seeks an adjournment on the ground that Sh. Viraj, Advocate, Amicus Curiae is held up in a part heard matter in the High Court.

It has been emphasized to the Ld. Counsel for the Respondent that in this case apart from objection on jurisdiction sought to be raised, the substantive issue is of adherence to norms of integrity and conduct which would be much higher for Dy. Speaker as a Public Functionary than others. Ms. Praveena Gautam, Counsel for Respondent requests for adjournment. Re notify for 31st March 2011 at 2:30 P.M.


(Justice Manmohan Sarin)
Lokayukta
11.03.11