

BEFORE THE HON'BLE LOKAYUKTA
Justice Manmohan Sarin
Complaint No. C-470/Lok/2010

In Re: Complaint against Sh. Anil Sharma, Municipal Councilor, (R. K. Puram) for unauthorized constructions and disproportionate assets to the known sources of income.

ORDER

1. A pseudonymous Complaint dated 12th July, 2010 by one Sh. Chatter Prasad was received in this office. A copy of the said complaint is annexed hereto as **Annexure – I**. It is alleged that Sh. Anil Sharma, Complainee/Respondent had encroached upon government land on the main Ring Road, adjacent to Moti Bagh Gurudwara and Satya Niketan Colony, built shops on it and opened a Maruti Service Station. He has installed hoardings for advertisements without permission from competent authorities. It is alleged that he was earning lacs of rupees per month by way of rent on unauthorized constructions, advertisement hoardings and running of Maruti Service Station. He was using water supply from a tube well which was installed for community benefit. It was further alleged that he has purchased benami properties in Satya Niketan Colony in the name of his relatives and friends. The said properties were listed as under:-

- (i) 37, Satya Niketan (full building with 4 floors)
- (ii) 93, Satya Niketan (full building with 4 floors)
- (iii) 282, Satya Niketan (full building with 4 floors)
- (iv) 181, Satya Niketan (full building with 4 floors)
- (v) 135, Satya Niketan (full building with 4 floors)
- (vi) 198, Satya Niketan (full building with 4 floors)
- (vii) 141, Satya Niketan (3rd Floor)
- (viii) 147, Satya Niketan (Ground floor)

118

(ix) • 203, Satya Niketan (3rd Floor)

2. It was alleged that another complaint regarding his benami properties as well as harassment threats and unauthorized construction was lodged by Smt. Sakuntala Narang, the then resident of House No. 14, Village Moti Bagh with the Chairman Women Commission , Vikas Bhawan, ITO, New Delhi. It was further alleged that government authority had imposed a fine of Rs. 2 crores approximately as damages on Sh. Anil Sharma vide File No. FSW(29)98/LPB/SWZ/PT-283. However, the said file had become untraceable since 1988.

3. The letter/complaint dated 12.07.10 contained serious allegations against Sh. Anil Sharma, who is a 'Public Functionary' in terms of Section 2(m) of the Delhi Lokayukta and Upalokayukta Act, 1995. The allegations with regard to owning and possession of 'benami' properties as also setting up of Maruti Service Station on public land etc and using community tube well for private purposes required to be verified and investigated by trained investigator, having experience of investigating economic offences. Accordingly, a retired ACP, Sh. Ajit Singh Chauhan was initially proposed to be appointed as Investigator to verify, investigate and collect information. However, the said Investigator expressed his personal difficulties in taking up assignment on account of certain pre-occupations. In the event, Mr. V.B. Bansal, a retired Asstt. Commissioner of Income Tax (Investigation) was appointed by this Forum as Investigator vide letter dated 1st April, 2011 in terms of

18

Section 13(2)(ii) of the Delhi Lokayukta and Upalokayukta Act, 1995 to verify, investigate and collect information and submit his report.

4. A communication dated 24.6.2011, which is annexed hereto as **Annexure- II**, was also addressed to Sh. Anil Sharma, enclosing copy of the Complaint dated 12th July, 2010. Mr. Sharma was required to appear before this Forum on 6.7.2011 for clarification and submitting his version/comments on the Complaint. In pursuance thereto Sh. Anil Sharma appeared before this forum on 6.7.2011 and submitted his written response with supporting documents. He also submitted another short reply of the same date supplementing the factual aspects under his signatures. The response and the short reply are annexed hereto as **Annexure-III** collectively. In the meantime Special Investigator, after visiting various offices independently, investigated the matter and submitted his report supported with documents, which is annexed hereto as **Annexure-IV**.

5. The Complaint dated 12.7.2010 as well as replies duly supported with documents filed by Sh. Anil Sharma and the Investigator's Report have been perused and considered. Sh. Anil Sharma was also heard in support of his response. The findings and conclusions reached in respect of each of the items of the Complaint are discussed briefly below:-

(i) The first allegation is that the Maruti Service Station and shops had been unauthorisedly built on public land. On inquiry it was found that the Service Station is operated by Sh. Madan Sharma and Sh. Atul Sharma, father and brother of the Respondent. It is an

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authorized service station, duly authorized by the Maruti Udyog Ltd. As regards it being built on public land, the Respondent has placed reliance on the order passed by Director, LM, (North Zone), DDA dated 26th March, 2003 . In the said order one of the issues considered was whether ancestors of Sh. Anil Sharma, namely, his father Sh. Madan Lal and grandfather Sh. Sri Chand were the actual 'Chulha Tax Payers' or encroachers in village Mochi Bagh in respect of land in their occupation. After examining the revenue records, it was found that Sh. Sri Chand, grandfather of Respondent had been a genuine 'Chulha Tax Payer' in respect of the land in his occupation at Arakpur Bagh Mochi since 1939. It was also found that Sh. Sri Chand was a 'Chulha Tax Payers in Arakpur Bagh Mochi and was fully entitled to take benefit arising out of his being original 'Chulha Tax Payer'. The service station and shops are built on the said land. As far as encroachment existing since 1959, it was held that no selective action could be taken against any individual. However, no new unauthorized construction or encroachment should take place.

Thus, the said order gives legitimacy to the occupation and possession of the land on which Sh. Madan Lal , father of Sh. Anil Shrama has established a Maruti Service Station in 1999. It cannot be said that the same is on public land. Mr. Anil Sharma has explained that one Smt. Sakuntala Narang, now deceased, wife of Sh. K.L. Narang, r/o Hosue No. 14, Village Moti Bagh, who had suffered certain demolition somehow felt that the same was on

118

account of Anil Sharma's family, and therefore, she and her husband keep on writing false, baseless and anonymous complaints against them. There were cross criminal cases also. He explained that after a policy decision, DDA had stopped charging 'Chulha Tax' and as per the policy decision, the original allottees of village Arakpur Mochi Bagh and their descendants were to be adjusted within the re-development plan and the matter of grant of perpetual lease hold rights is pending. It is not necessary to delve into further details regarding the legitimacy of the occupation by Sh. Anil Sharma's father. Sufficient it is to observe that they have been in continued peaceful possession being the original 'Chulha Tax Payes'.

(ii) Regarding hoardings, it has been explained by Mr. Anil Sharma that these were signages with due approval from the MCD and in terms of the guidelines contained in the advertisement policy and no other hoardings were put. This fact has been duly corroborated by the investigator in his report.

(iii) As regards the allegations that the tube well was installed for community welfare, which was being exploited by Sh. Anil Sharma and his family for commercial purpose, Mr. Sharma has produced registration of the bore well with the Ground Water Authority, which shows that the same had been installed for commercial purpose. The investigator has supported the above position. He has also reported that there existed a General Tubewell in the said village for

the public. Hence the allegation that the tube well was sanctioned for community purposes is belied.

(iv) As regards properties claimed in the Complaint to be benami, Sh. Anil Sharma submitted in his response that as far as Property Nos. 282, 181, 135, 141 and 203 at Satya Niketan were concerned, neither he personally nor any member of his family or their relations had any interest in them. The above position is also fortified by the Report of the Investigator who has found that property No. 282 stood assessed in the name of one Sh. Baru in MCD records. Property No. 181 was assessed in the name of Mr. Michael C/o Bodra., Shop No. 5 on ground floor and first floor of the property had been mutated in the name of one Sh. Kamlesh Malhotra. Property No. 135 was assessed in the name of Sh. Krishan Lal while mutation of first floor of property was made in the name of Sh. Promod Kumar on 26.8.09. Property No. 141 had been assessed in the name of Sh. Tej Bhan Asija and third floor of property No. 203 stood assessed in the name of Sh. Shyam Sunder Aggarwal and Sh. Mithelesh Aggarwal. It would be, therefore, seen that none of these properties stand in the name of Sh. Anil Sharma, his father Madan Sharma or his wife Smt. Manju Sharma.

Mr. Anil Sharma further disclosed that Property No. 37 was in the name of his sister-in-law and his cousin Sh. Vikas Vashita. However, both of them are independent tax assessee and property and rental income from the said property is reflected in their respective tax returns. Regarding Property No. 93, he submitted the

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same was purchased by his brother-in-law Sh. Sanjeev along with his brother Sh. Atul Sharma and cousin Sh. Vikas Vashista. All three purchasers are independent tax assessee and property is reflected in their tax returns. Rental income is shown in their respective returns. Property No. 198 belongs to Smt. Neelam wife of Sh. Vikas Vaashita, his cousin, who purchased it in the year 2006 and both of them reside there. Property No. 147 belongs to Sh. Vikas Vashista who own half of the ground floor. Mr. Sharma submitted that he had no interest in any of the properties.

Further detailed investigation by the Special Investigator has also not revealed any interest of Sh. Anil Sharma or his relations in the properties mentioned as belonging to him. Besides the Respondent himself has disclosed with candour wherever he or his relations have interest in the properties. However, no material has come on record which would point a needle of suspicion or indicate that Sh. Anil Sharma personally had interest in the properties alleged to be benami.

(v) As regards the allegation of fine of Rs. 2 crores being imposed on the Respondent, vide File No. FSW(29)98/LPB/SWZ/PT-283, Special Investigator had moved an RTI query seeking information from the office of the Dy. Director , LM, DDA in respect of the said penalty or fine. In response to the Investigator's query File No. FSW(29)98/LPB/SWZ/PT-283, which was alleged to be untraceable was available in the TN Section. Further it was clarified by the DDA

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that no penalty was imposed by DDA against Sh. Anil Sharma. The reply of DDA is annexure hereto as **Annexure-V**.

(vi) Further investigation regarding illegal occupation of 'Teh Bazari' shops in the Kashmiri Market, the Investigator after enquiry has found that none of the shops had been allotted to or occupied by Sh. Anil Sharma or his relations.

6. From the foregoing discussion, none of the allegations made against Sh. Anil Sharma has been found to be correct in the preliminary inquiry conducted. Accordingly the said complaint is found to be containing baseless allegations and directed to be filed and the inquiry closed. Copy of the order be made available to the Respondent.


(Justice Manmohan Sarin)
Lokayukta

Dated ³⁴July, 2011.
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