

BEFORE THE HON'BLE LOKAYUKTA
Justice Manmohan Sarin

Complaint No. C-362/Lok/2010

In Re:

Sh. Tarsem Chaudhary

Complainant/Original Informant

Vs.

Ms. Savita Gupta, Councillor

Respondent

1. Sh. Tarsem Chaudhary, Complainant/Original Informant.
2. Ms. Savita Gupta, Councillor/Respondent with her husband Mr. Ashwani Kumar.
3. Ms. Chhaya Sharma, DCP (South).
4. Sh. Yogendra Babu, Assistant Director for MCD.

ORDER

1. Sh. Tarsem Chaudhary, Complainant/Original Informant alleged "misconduct" on the part of Respondent/Municipal Councillor in referring his request for booking the Community Centre at South Extension, Part-II, C-Block, Delhi, for the marriage of his niece, to the Resident Welfare Association and thereafter, not granting permission for the same.

2. It was contended that when public funds amounting to Rs. 70 Lakhs, had been spent on construction of the Community Centre from the allocation of the Area MLA, there was no justification for not permitting booking of the Community Centre for marriage etc. on the objection of the

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Resident Welfare Association (RWA). Under the MCD circular/guidelines, RWA had no locus to object. It was only the recommendation of the Councillor that was required. It was urged that by refusing permission for booking of Community Centre, MCD was incurring loss of Rs.10,000/- per day.

3. The Complainant/Original Informant also alleged that the Councillor has permitted the Resident Welfare Association to misuse part of the building of the Community Centre for commercial purposes.

4. On receipt of a communication from Complainant/Original Informant a letter was sent to the Commissioner MCD on 30-4-2010, calling for a report in the matter. There was no response from the Commissioner and vide another communication dated 26/8/2010, displeasure of Lokayukta on lack of response was conveyed to the Commissioner.

5. Cognizance in the matter was there upon taken on 9th June, 2011, treating the communication from Sh. Tarseem Chaudhary as "other information" in terms of Section 7 of the Delhi Lokayukta and Upalokayukta Act, 1995. As there was no response from the Office of the Commissioner MCD, vide order dated 9th June, 2011, a statutory notice returnable on 7th July, 2011, was issued, culminating in a direction for personal presence of the Commissioner on 2nd August, 2011. Thereafter



an application was moved seeking recall of order dated 7th July, 2011, of personal presence by the Assistant Director, who filed the Status Report. He expressed regret on being stuck in the traffic jam and assured to be vigilant in future. The expression of regret was accepted and application allowed.

6. The MCD in the Status Report stated that permission for use of the Community Centre is granted only when the application is recommended by the area Councillor. The reasons for declining permission were known to the Councillor alone. Accordingly, notice was issued to the Municipal Councillor Ms Savita Gupta, returnable on 2nd August, 2011.

7. Respondent, Ms. Savita Gupta, appeared on 2nd August, 2011 and sought time to file reply. Response was filed by the Respondent/Councillor stating that there were strong protests and objections raised by the residents in the vicinity of the Community Centre on its use for marriages and similar functions. The resultant disturbance on account of marriage procession, blockage and congestion of traffic and the loud music etc. caused inconvenience to the residents. Copies of several protest letters received have been enclosed with the response.

8. The perusal of the number of protest letters of residents produced by the Respondent bring out the difficulties experienced by the residents. It is brought out that the Community Centre is built on a small triangular plot. It is

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surrounded by houses of 'C' block, leaving a road of 15 feet width. During the marriage procession, there are cars etc. which are parked blocking the only approach road, making difficult egress and ingress to the houses in the vicinity. This is apart from the disturbance on account of loud music, crackers etc.

9. The Councillor, Ms. Savita Gupta has explained that the residents are overwhelming in their protest and determination of not permitting weddings to be held in Community Centre which causes severe annoyance and disturbance to them.

10. The Complainant/Original Informant on the other hand submits that public funds to the extent of Rs.70 Lakhs have been spent on the construction of the Community Centre which was inaugurated in February, 2009. The use of the Community Centre for members of community for their religious and social functions including marriages is one of the permissible uses as per the guidelines. The residents cannot arbitrarily put fetters thereon or claim that no permission for marriages should be granted.

11. A member of the community at one time or the other would require Community Centre for their social purpose including for marriages, as they cannot be left to the mercy of performing these essential functions and bear the onerous burden of having them in expensive hotel etc. It is a part of

community service and benefit which a member may legitimately expect.

12. The submissions and view points of the Complainant as well as Respondent have been duly heard. The Respondent has also put forward the view point of the residents and objectors by placing their objections on record. MCD has also placed on record the guidelines as contained in circular dated 26-11-2010 for booking of Community Centers.

13. From the said guidelines, it is noticed that booking for marriage is one of the purposes contemplated under the guidelines. Notice was also issued to the DCP, District South, to ascertain their requirements and enforceability of certain restrictions. During hearing, the Respondent/Councillor pointed out that she had no animus or prejudice against the Complainant/Informant. It was only on account of strong and overwhelming protests of the residents that she held back her recommendation and stopped giving the recommendations to requests for allotment of Community Centre for marriages. At this stage, Complainant submitted that he would be satisfied if in future allotments were made for marriages.

Complainant and the Respondent desired the Lokayukta to use his good officers to reconcile the conflicting views and resolve the differences. All the parties appearing submitted that they were amenable to a reasonable solution, which will



accommodate the concerns and different views points as may be formulated.

14. The local police was also heard on its concerns. MCD representative stated that it would welcome a resolution with good offices of this Forum. After hearing the complaint⁽¹⁾ and the Respondent who also put forward the view point of residents/ objectors and examining the concerns and feasibility of enforcement of certain restrictions and conditions suggested by the police, this Forum is happy to record that the following broad consensus emerged. The permission for holding of marriages may be granted to the applicants on their agreeing to abide by the following terms and conditions for use of community centre-

- i. Considering the location of Community Centre, its topography and the accommodation available therein, it may be booked for guests up to 350, not to exceed 400 in any case.
- ii. There shall be no parking of any vehicle on the 15 ft. wide road up to a distance of 70 yards from the venue except the car of the groom and bride and any infirm or disabled person, that may be allowed.
- iii. Pre condition for allotment would be the availability of valet parking services, dropping and drive away facility.
- iv. No loudspeakers or loud music would be permitted after 10.pm.

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- v. Considering the narrow approach road and residential houses on both sides and the road being only 15feet wide, no fire crackers, rockets, aatish bajis or similar objects be permitted in the barat procession within 70 yards from Community Centre being a fire and safety hazard.
- vi. Generator set with silencer and/or a canopy to be used to avoid noise pollution
- vii. Double the normal booking charges to be deposited as security deposit for due compliance with the above conditions so that on the breach of any of the condition, the security amount would stand forfeited. The above is to act as a deterrent.
- viii. Councillor in case where he/she refuses permission, should state the reasons, therefor. The said decision to be appealable before the Mayor.
- ix. MCD may consider empanelment of vendors to render the services at competitive rates to have greater quality control on the availability of noise and pollution free generator.
- x. Fire safety precautions being taken by regular empanelled vendors.

The adoption of the above measures commend to this Forum to ensure utilization of the public service facility, while mitigating hardship and inconvenience to the extent feasible to the residents by its usage for marriages & similar functions.

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15. The complaint is disposed of in the above terms.

16. Copy of the order, incorporating the recommendations based on the consensus reached, be sent to the Commissioner, Municipal Corporation of Delhi and Deputy Commissioner of Police South District Delhi for implementation. Copy of the order be also sent to the Complainant/Original Informant and the Respondent for information.

17. A copy be also sent to His Excellency the Lt. Governor of NCT of Delhi for information.


Justice Manmohan Sarin
Lokayukta

Dated : 29th December, 2011.
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