

**BEFORE THE HON'BLE LOKAYUKTA  
Justice Manmohan Sarin**

**Complaint No. C-396/Lok/2010/**

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Lokayukta on its own motion – Encroachment upon Hospital land of Rajan Babu Tuberculosis Hospital, Model Town, Delhi

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In the matter of Sh. Nathu Nagar, Ex. Municipal Councillor,  
Noticee / Respondent.

Present:

1. Mr. Sanjiv Sharma, Advocate, Amicus Curiae.
2. Mr. Amit Nagar, son of Respondent.

1. This is an application moved under section 152 of the C.P.C for correction of clerical errors in paras 10 and 17 of the order dated 30<sup>th</sup> September, 2011. The basic error pointed out is that though Respondent was the elected councillor during the period 1997-2002 and 2002- 2007 from Rana Pratap Bagh Ward, the order dated 30.09.2011 has proceeded on the basis that the Respondent was councillor from 1992-97 and 1997-2002 and the 5 years period after last term expired in 2007.

2. Mr. Sharma points out that above is a clerical error in as much as the Respondent's own case and averments in the application dated 4.1.2011 supported with his affidavit and in the reply dated 4.8.10 signed by the Respondent and supported with his affidavit, i.e in both the above application and reply is that the Respondent was the elected councillor from Rana Pratap Bagh Ward during the tenure 1997-2002 and 2002-07. During the oral submissions, the term was inadvertently mentioned as 1992-1997 and 1997-2002 by the Counsel for the Respondent and was recorded.

For facility of reference, extracts from the reply as filed by the Respondent is reproduced:

"1. That the respondent is a law-abiding citizen and has served the public at large being the elected Councillor (Congress) from the area falling his constituency Rana

Pratap Bagh, Delhi, during his tenure in the year 1997-2002 and in the year 2002-2007."

Again in para 4 of the application of Respondent dated 4.1.2011, it was averred;

"4. That the applicant was an elected Councillor (Congress) from the area falling in his constituency Rana Partap Bagh, Delhi during his tenure in the year 1997 to 2002 and in the year 2002-2007."

3. Notice and intimation of this application had also been sent to the Respondent. In response, Mr. Amit Nagar son of the Respondent is present, who has verified from the court file the above averments made in the reply and the application under his father's signatures and accepted the same as correct.

Accordingly para 10 of the order dated 30.09.11 after correction of the term shall read as under:-

"The next submission was that the Respondent had come in possession of the land and became co-owner much before he became a Councillor for the first time for the term 1997-2002 and thereafter, 2002-2007. Under Section 8(b) of the Delhi Lokayukta and Upalokayukta Act, 1995, there was a bar on taking cognizance of a complaint or proceedings, where cause of action had arisen more than 5 years back. The assumption of jurisdiction by the Lokayukta by issuance of notices on a complaint dated 23.6.2010 was thus urged to be clearly barred by limitation. Five year period after the last term of 2002-2007 also expired in 2012."

#### Instead of

"The next submission was that the Respondent had come in possession of the land and became co-owner much before he became a Councillor for the first time for the term 1992-97 and thereafter, 1997-2002. Under Section 8(b) of the Delhi Lokayukta and Upalokayukta Act, 1995, there was a bar on taking cognizance of a complaint or proceedings, where cause of action had arisen more than 5 years back. The assumption of jurisdiction by the Lokayukta by issuance of notices on a complaint dated 23.6.2010 was thus urged to be clearly barred by limitation. Five year period after the last term of 1997-2002 also expired in 2007."

Similarly first 8 lines of para 17 after correction shall be read as under:-

"The first objection to be considered is that the order directing issuance of notice to the Respondent for an

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inquiry under Section 7 read with Section 2(b) of the Delhi Lokayukta and Upalokayukta, Act, 1995 (for short as 'Act') was clearly barred by limitation. The basis for this plea or objection by the Respondent is that he was the Councillor in the year 1997-2002 and 2002-2007. The Lokayukta can take cognizance within five years of the cause of action. In short the submission is that the five year period after the second term expired in 2012, while the notice had been issued in 2010. The alleged encroachment being of 1978 or so. It would be... "

#### Instead of

"The first objection to be considered is that the order directing issuance of notice to the Respondent for an inquiry under Section 7 read with Section 2(b) of the Delhi Lokayukta and Upalokayukta, Act, 1995 (for short as 'Act') was clearly barred by limitation. The basis for this for this plea or objection by the Respondent is that he was the Councillor in the year 1992-1997 and 1997-2002. The Lokayukta can take cognizance within five years of the cause of action. In short the submission is that the five year period after the second term expired in 2007, while the notice had been issued in 2010. The alleged encroachment being of 1978 or so. It would be... "

4. This forum has chosen to make correction of the clerical error as they appeared in the date. With the correction, Respondent's submissions appears incongruous in as much as the said submissions was recorded on the basis then urged by the Respondent, namely, that the term was 1992-1997 and 1997-2002, which was admittedly a clerical error and has been corrected. As a result of correction of the admitted error, the 5 year period after the term would expire in 2012.

The application stands disposed with the above correction of the clerical error.

Matter to come on **7<sup>th</sup> May, 2012 at 2.30 PM**, the date already fixed.

  
**Justice Manmohan Sarin**  
Lokayukta

**Dated : 30.01.2012**  
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