

**BEFORE THE HON'BLE LOKAYUKTA**  
**Justice Manmohan Sarin**  
**Complaint No. C-1050/Lok/2011**

Shri Arun Rai & Anr

Versus

Smt. Kamlesh, Municipal Councillor,  
Ward No.27, Madanpur Khadar

Present:

1. Mr. R.S. Bidhuri & Mr. Arun Rai, Complainants with Mr. Abhijat Bal & Ms. Farha A. Khan, Advocates.
2. Mr. Arun Kaushal, Advocate for Respondent with Mr. Inder Raj,
3. Mr. Manish Makhija, Advocate for Deptt of Revenue.
4. Mr. Rajiv Singh, SDM (Kalkaji)
5. Mr. Mahender Pal, Deputy Secretary, Deptt of Urban Development.
6. Mr. Krishan Kumar, Kanoongo, O/o SDM (Kalkaji).

Affidavit of Mr. Mahender Pal, Deputy Secretary, and Department of Urban Development has been filed. Mr. Manish Makhija, Counsel on instruction from Mr. Mahender Pal, who is present in court, reconfirms that there was no scrutiny/verification/checking done of the applications received with regard to the factum or existence of the colonies or verification of the facts stated in application and supporting documents i.e. layout plan, architect's certificate, list of members etc. PRCs were issued subject to the final verification.

Mr. Rajiv Singh, SDM (Kalkaji), who is stated to have recently joined, confirms that the report at page 68/C as far as first correction is concerned, which was initialled on the last date of hearing, the answer 'Yes' vide Award No. 205/86-87 is correct. As to the second disputed query raised i.e. non mentioning of award while giving particulars of land being covered under regulation No. 22 of the DDA Act, Mr. Singh states that the answer 'not' in respect of award is wrong and Award No. 6E/92-93 has been mentioned. He has incorporated the same in the report and initialled it.

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Mr. Rajiv Singh states that 10 days time may be granted for completion of verification in respect of details which are given at sl. No. 3 in the report of Radha Krishan Vihar.

Mr. R .S. Bidhuri has offered to furnish concerned documents which would facilitate the filing of the report by Mr. Rajiv Singh. Let him do so.

Vide orders dated 1st February, 2012 and as reiterated on 1<sup>st</sup> March, 2012, an affidavit was required to be filed on behalf of the Department of Urban Development that there was no other record in relation to the decision making process regarding grant of Provisional Regularization Certificates (PRCs) in respect of colonies in question. On 1st March, 2012, it was reiterated to the Deputy Secretary that the certification required was that the record produced was the complete record.

Vide affidavit filed on 14<sup>th</sup> March, 2012, it has been averred in para 15 of the affidavit as under:

"It is further submitted that as per the records made available, all the relevant files/part files/records pertaining to the issue of PRCs have already been submitted before the Hon'ble Forum.

The above certification is evasive in as much as the averment is that as per record made available. The question is not of records being made available, but that the officers has satisfied himself that no other record in relation to the PRCs in respect of said colonies exists in the Department. The direction for this certification be complied with on or before the next date as the above evasive statement is not acceptable.

The averments of the Respondent with regard to their possession and title to that land/property in Abul Fazal Enclave, Part -II, Road No. 13-A, Jasola are rather vague. In para 6 of reply on merits, it has been averred that these are ancestral properties and various litigations are also pending in various courts even before the selection of Respondent as Municipal Corporator.

Again in para 6 of reply on merits, it has been averred that Respondent was shareholder in one of the colonies at Abul Fazal

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Enclave, Part -II, Road No. 13-A, Jasola, which was purchased by the legal heirs of Late Sh. Harswaroop Singh, who happens to be father-in-law of the Respondent.

It has also been claimed in one of the reports filed by the Revenue Department that part of Khasra No. 438/min has been under stay with the Supreme Court. Leaving those issues apart, in an inquiry where the nature of allegations is that the Respondent and his associates or relations had floated bogus societies and submitted layout plans for the purposes of issuance of PRCs. It is incumbent for them to disclose as to when they exactly came into possession of the land through agreement to purchase, POA etc based on which they acquired possession.

Let the Respondent file an affidavit in this regard in respect of Khasra No. 438/min of Village Jasola on or before the next date. The Respondent may also file particulars giving the details of litigations, if any, in respect of properties which are subject matter of the land covered by any of the societies and subject matter of inquiry within 10 days.

Mr. Bal submits that court may consider as a preliminary issue the question whether under the guidelines any scrutiny of the applications for regularization before the grant of PRCs was required or not, for purposes of an interim report. He submits that PRCs were not to be issued mechanically without application of mind and scrutiny even at the initial stage. Action was required as taken was uncalled for in terms of the guidelines, especially considering the admitted object and recommendations made by the Government of NCT of Delhi to the Central Government to amendment in the Regulations to permit issuance of PRCs.

Issue notice to show cause to Department of Urban Development, Govt. of NCT, Delhi, returnable on 23<sup>rd</sup> April, 2012, as to whether provisional regularization certificates under the regulations and guidelines could be granted without verification of the factum of existence of colonies and scrutiny at the initial stage, considering the purpose of recommendation made by the

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Govt. of NCT of Delhi to the Central Government for amendment in Regulations and the object of issuance of PRCs?

Re notify on 9<sup>th</sup> April, 2012 at 3.30pm before the Learned OSD for scrutiny and completion of pleadings.

Put up on 23<sup>rd</sup> April, 2012, at 2.30pm, for arguments on the question of scrutiny and verification as required under the regulations and guidelines prior to issuance of PRC's and recording of statement of Complainant.

  
(Justice Manmohan Sarin)  
Lokayukta

**Date: 15.03.2012**

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