

**BEFORE THE LOKAYUKTA
Justice Manmohan Sarin**

Complaint No. C-1050/Lok/2011

Sh. Arun Rai & Another
Complainants
Through Mr. Abhijat Bal, Advocate

Vs.

Smt. Kamlesh, Municipal Councillor,
Ward No. 207, Madanpur Khadar.

Respondent

Present :-

1. Sh. Arun Rai, Complainant in person.
2. Mr. Manish Makhija, Advocate, Counsel for Deptt. of Revenue and Deptt. of Urban Development, Govt. of NCT.
3. Mr. Arun Kaushal, Advocate, Counsel for Respondent.
4. Sh. Krishan Kumar, Kanungo, O/o SDM Kalkaji.
5. Sh. Jai Prakash, Kanungo, O/o SDM Kalkaji.
6. Sh. Hira Lal, O.S (UD).

It is unfortunate that vide orders dated 1st of February, 2012 as reiterated on 1st of March, 2012, 14.03.2012 and 09.04.2012, the requirement regarding filing of certificate/affidavit from the department of UD that no other record in relation to the decision making process regarding issuance of PRCs in respect of colonies in question exists in the department, has not been filed. On the last date, time was sought for filing this affidavit.

Today when the matter is taken up Mr. Manish Makhija, Ld. Counsel submits that he was not aware of last order and was informed today. Sh. Hira Lal, O.S, UD Department is present. He has again been asked on this aspect and it was brought to his attention that this is a factual question and on which a statement is required from his side and no legal question arises.

He informs that the file has been sent to Law Department but on another issue. The same can not be an explanation for non filing of this affidavit.

Sh. Hira Lal further states that he would have to find out from higher officials whether there is any other record in relation to the decision making process of PRCs available in the department. This is rather strange since the custodian of the record of the department ought to be fully knowledgeable about the records available in the department.

Be that as it may, in view of this statement and the certificate/affidavit as directed not having been filed despite 4 opportunities, a direction shall issue for presence of Pr. Secretary (UD) on the next date unless the affidavit as directed is filed on or before the next date. The direction is necessary since four opportunities have already been given for filling of the affidavit yet the simple direction has not been complied with on untenable grounds.

On 14.03.2012, the following order was passed and a notice issued to the department of UD on the following lines :-

“Issue notice to show cause to Department of Urban Development, Govt. of NCT of Delhi, returnable on 23rd 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 Govt. of NCT of Delhi to the Central Govt. for amendment in regulations and the object of issuance of PRCs”.

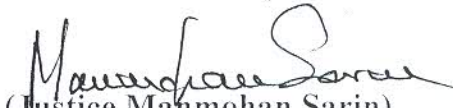
Mr. Manish Makhija, Ld. Counsel submits that two months time be given for arguments, as per the written request. There is no question of granting two months time on an issue like this. However, with a view to enable the department to make its submission on this issue further time is granted. The department has already expressed its stand on the matter and stated the factual position that no verification was done, department is only to justify the same by reference to the regulations and the interpretation given to it by the department, while taking that decision.

In the interest of justice, the matter is adjourned to **01.05.2012** at **2.30 P.M.** No further adjournment in this regard shall be given.

The attention of Mr. Arun Kaushal, Counsel for Respondent was drawn to the directions given on 14.03.2012 by this forum. He submits that the Respondent was unable to comply with the directions given on 14.03.2012, regarding filing of an affidavit in respect of Khasra No. 438/min of village Jasola, giving the details of litigations, in respect of properties which were subject matter of the land covered by any of the societies as also disclosure of particulars as to when they exactly came into possession of the land through agreement to purchase, POA etc. based on which they acquired possession.

Mr. Arun Kaushal says that by the next date, he would have the affidavit filed. Mr. Arun Kaushal to note that in case this affidavit is not filed, an adverse inference would be drawn with regard to their occupation and possession.

The matter is adjourned to **01.05.2012** at **2.30 P.M.**


(Justice Mahamohan Sarin)
Lokayukta.

Dated : 23.04.2012

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