

BEFORE THE HON'BLE LOKAYUKTA
JUSTICE MANMOHAN SARIN
COMPLAINT NO. C-1147/Lok/2011

In the matter of Suo Moto Cognizance of a Press Report Titled "Sting Operation Ke Baad Parshadon Mein Macha Hadkamp" appearing in "Nav Bharat Times" Dated 07-12-2011

AND

In the matter of Inquiry Under Sec. 7 read with Sec. 2(b) of The Delhi Lokayukta & Upalokayukta Act, 1995, in respect of Conduct of Smt. Manju Gupta, Municipal Councillor, Respondent herein.

1. Shri Sanjeev Mahajan, Advocate, Amicus Curiae.
2. Shri Rajesh Pathak, Advocate, Counsel for Smt. Manju Gupta, Municipal Councillor, Respondent.
3. Mr. Mrinal Bharti, Advocate, Counsel for IBN 7.

REPORT

Cognizance and Issuance of Notices

1. Suo moto cognizance was taken of a report titled "Sting Operation Ke Baad Parshadon mein Macha Hadkamp", appearing in "Nav Bharat Times" dated 7-12-2011. Vide Order dated 7-12-2011, notices were issued to the Editor and City Correspondent of "Nav Bharat Times" to produce complete records of interview and other evidence in relation to the press report. Notices were also directed to be issued to the Managing Director and Correspondent of Channel IBN-7, who had carried out the telecast of the sting operation showing involvement of Municipal Councillors participating in negotiations regarding carrying out of illegal and unauthorized constructions for illegal gratification. The reporters of Cobra Post, who had been deputed by the Channel IBN-7 to carry out the sting operation, were directed to produce the original footage/records of the sting operation.

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Commencement of Proceedings

2. Pursuant to the notices issued, the advocate of M/s. TV18 Broadcast Ltd, which owns Channel IBN-7, appeared with two reporters of Cobra Post owned by M/s. Shri Bhardwaj Media Pvt. Ltd, who had carried out the sting operation under an arrangement with Channel IBN-7. The statements of the reporters who had carried out the sting operation were duly recorded on oath. The Deputy General Manager of IBN-7, Mr. Sachin Dev, CW-3, also tendered the original footage contained in the DVDs, as Ex.CW-3/1, Ex. CW3/2, Ex. CW3/3 and Ex. CW3/4. The DVD of the telecast programme was also tendered as Ex. CW3/5. The transcripts of the recorded conversation of the meetings and negotiations with Respondent Councillor and 7 other Councillors were also tendered. After viewing the DVD recording of the conversation of reporters with the Councillors and perusal of the transcripts of the same, vide Orders dated 21-12-2011, it was held that case for inquiry under Sec. 7 r/w 2(b),(i), (ii), (iii) & (iv) of the Act was made out and notice to the respondent and other Councillors returnable on 16-01-2012, were directed to be issued. The file of each Councillor was directed to be segregated and registered as a separate complaint.
3. The Respondent entered appearance through Shri Rajesh Pathak, Advocate, and filed her reply-cum-written statement. Considering the nature of the controversy and issues arising for consideration, it was found expedient and in the interest of justice to appoint an Amicus Curiae and Shri Sanjeev Mahajan, Advocate, was so appointed vide Order dated 16th January, 2012.

In view of the ensuing municipal elections, Respondent Councillor among others made a fervent plea for expeditious disposal of the inquiry proceedings so that if allegations are not proved, he / she stands exonerated without delay, so as not to affect their election prospects.

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Procedure adopted for Inquiry

4. The Counsel and parties were heard and their suggestions considered regarding adoption of the procedure in the inquiry so as to conform to the principles of natural justice, while expediting the inquiry, yet giving the fullest opportunity to the parties to present their respective case. A consensus emerged on the procedure to be adopted which is re-produced below for facility of reference:-

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- (i) All the Counsels and parties shall endeavour to abide by the time given for completion of pleadings. In fact the Respondents and the broadcaster have all stated that they would take not more than one to three weeks so that the entire pleadings can be completed within a month at the maximum.
- (ii) Regarding the authenticity and correctness of the recordings which have been produced, it has been agreed that individual footage in each of these cases would be played in court before the Presiding Officer with best equipment as available with the Broadcaster to make the sound clear and discernable so that some of the gaps noticed in the transcripts at present are filled up and an attempt is made for an agreed transcript to emerge. It is prayed by the Counsels that viewing should be spread over one week and individual recordings be viewed and parties heard.

Wherever it is not possible to have an agreed transcript, the Broadcaster and the Respondent, each may give their version with regard to the particular words uttered. This forum would then decide the controversy. Accordingly, in case the broadcaster and the Respondent are at variance,

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each would have the option to present its version of the transcript. Beyond the discrepancies in the transcript, Counsel and parties submit that they are not questioning the authenticity or demanding any other requirement with regard to the proof of the recordings. Considering the nature of the inquiry before the Lokayukta formal proof of these recordings is dispensed with.

- (iii) Parties agreed that based on the pleadings and transcripts as finalized, the Lokayukta would fix the date of hearing in the individual cases.
- (iv) Parties agreed that any common issue of law or facts which arises for consideration in their inquiries would be dealt with together by the Lokayukta and while the evidence and arguments in relation to each of the cases or transcripts will be separately taken up.
- (v) It is also agreed that while the authenticity of the conversation and their transcripts would be established in the above manner, parties would be at liberty to point out any personal animosity or motive on the part of the reporters for having carried out the sting operation."

None of the Counsel made any suggestion or request for alteration or modification in the above procedure, which was accepted by all.

Finalization of Transcript of Recording

5. The Office of the Lokayukta made arrangements for viewing of the DVDs containing copies of the original footage referred to as the "raw footage". The raw footage as recorded in the DVDs were played and re-played several times in the presence of the Respondent Councillor, the Ld. Counsel for Respondent, the Ld. Amicus Curiae and the Advocate for IBN-7 Channel.

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6. During the playing of the recording of the original footage, the Respondent, her Counsel as also the Counsel for the Channel and the Amicus Curiae gave their inputs to reach a consensus. Certain corrections in the transcript of the recording were made as noticed and pointed out by Shri Rajesh Pathak, the Ld. Counsel for Respondent. Apart from that he could not point out any error in the transcript except that at places sound was not clear and it was difficult to recognize the voice. The Forum also places on record its appreciation for the cooperation of all the Counsels and the efforts put in by the Amicus Curiae, in completion of this exercise. The Registry was directed to supply the corrected version, after carrying out the correction as noted by the Presiding officer.

Completion of Pleadings

7. Pleadings were also completed. Copy of the Press Report appearing in "Nav Bharat Times" dated 7-12-2011 is annexed hereto as **Annexure-I**. Copy of Reply-Cum-Written Statement filed by the Respondent on 16-1-2012 is annexed hereto as **Annexure-II**. The Respondent and his Counsel as well as the Amicus Curiae and Counsel for IBN-7, all submitted that the matter be proceeded with on the basis of the transcript of the original footage as finalized after viewing and no further evidence needs to be led by them or the Respondent. The said statement was made by the respondent's Counsel on the basis of instructions by the respondent. The Respondent's Counsel only wished to make oral submissions in support of pleas taken in reply cum written statement. The transcript of conversation as finalized and agreed to between all parties and marked 'CV', i.e. corrected version, subject to the above observations is annexed hereto as **Annexure-III**.

SUMMARY OF TRANSCRIPT

8. It would be appropriate at this stage, to summarize the transcript as finalized which recorded the conversation between the Respondent and the reporter/builders.

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The reporter posing as builder approaches the Respondent and states he is doing construction work in the area of the Respondent. He further states that earlier he was working in Ghaziabad area. The husband of the Respondent asks the reporter as to in which block he would be doing the work. The reporter informs that he would be working in A-Block and precisely states 'A-95'. Then they discuss about its location and Respondent participates in this discussion. The reporter then states that his brother had undertaken the work of construction at Mother Dairy where they had faced a lot of problem and reference is to the JE of the area. The reporter addressing Respondent says that he does not want any such problem. It is pertinent to mention here that during the entire conversation the reporter is dealing with the Respondent, her husband and one person called Inspector Sharma.

Keeping in mind the context in which the talk took place, it is inferred that reporter/builder first met Insp. Sharma to approach the Respondent, that is why, Insp. Sharma says, "Kah rahe the Pehle baat Kara do ----- Han Kara do Madam se----- Phir Kuch Nahin rahegi ----- problem". The Respondent, however, states that she will not do any such thing and refers the reporter to one Arvind and tells that whatever he has to say he may say to Arvind. She further tells to the Respondent that he will not face any difficulty here. She further assures the reporter that he should not worry and she will not make him face any difficulty and also assures to talk to them. (In the present context, the expression "them" refers to persons who have concern with activity of raising construction in the area). Thereafter, the husband of the Respondent assures the reporter that he will not face any difficulty from MCD but as regard the DDA and the police, he tells the reporter that he will have to see to them himself and further lends assurance that no MCD person would come there. The reporter then says that police takes money. He had talked with his brother about money and addressing the husband of the Respondent, asks

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about the amount. The husband of the Respondent gives response to this query regarding money smilingly and states that whatever it would be (the amount) he will be informed (here the husband of the Respondent is referring to some other person who will inform about this). The reporter then specifically asks the husband of the Respondent about the exact amount and states that they asked for about Rs. 3 Lacs. On persistent asking of the reporter, the husband of the Respondent states whatever has been told it must be right. Later on, in the conversation, the reporter asks again about the amount. Insp. Sharma says addressing the reporter, "you have to give the budget". Reporter then says Rs. 3 Lacs, to which the husband of the Respondent answers in affirmative. The reporter then insists that the amount is high and he wants to discuss in front of madam (Respondent). Later on, in the conversation the reporter and Insp. Sharma are discussing the issue in which Insp. Sharma says that they (refers to the Respondent and her husband) do not talk about money and it is he who decides and finalizes. He further states later on that madam (Respondent) does not discuss this issue. The conversation between the reporter and Insp. Sharma shows that the reporter had met the Respondent through Insp. Sharma. Reporter says that it was only a formal meeting. Insp. Sharma then states that the amount of Rs. 3 Lacs has been told. Reporter says that the amount is excessive to which Insp. Sharma responds that why he asked for the same. Rest of the conversation is not very specific although it hovers around the main issue of raising of construction by the reporter and the assistance sought from the Respondent to avoid any hindrance in the construction from MCD.

Response and Submissions of the Respondent.

9. Respondent had filed the reply to the Show Cause Notice through Counsel on 16-01-2012. This reply, in fact, contains the response to the notice on legal issues as well as on factual

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matrix. It was submitted by the Respondent that the sting operation telecasted on the TV channel IBN 7 showing clippings of the conversation of the respondent with the reporter gives the colour of corruption to the entire conversation without any evidence to substantiate the said plea. The telecast of the sting operation was just to increase its TRP and the popularity of the channel. It is further submitted that the Respondent was working in the area for about 20 years. She is a honest and devoted worker and discharges her functions as Councillor in public interest. She has never abused or misused her position to obtain any gain or favour to herself or to any other person. It is further submitted that the sting operation telecasted on 6-12-2011 on the TV channel IBN 7 shows the conversation of the Respondent with some person, which has been so picturized and edited as to reflect that the Respondent agreed for illegal gratification for shielding demolition and sealing, by the MCD. It is further submitted that there was no whisper of any demand of money in the entire conversation between the Respondent or her husband for carrying out illegal construction in her area/ward. It is further submitted that the constituency of the Respondent consists of some Group Housing Societies and unauthorized colonies, Madhu Vihar and Joshi Colony, which come under the jurisdiction of DDA, and as such there is no interference of the building department of MCD. It is further submitted that the Respondent is the representative of the ward and hears the grievances of the public in the area. Even the DVD clippings substantiate the fact that the Respondent was talking to several people regarding their grievances along with the person in question (referring to the reporter) who had also come with his grievance. It is further submitted that it is highly improbable that the Respondent would be discussing the matter of illegal gratification in open sitting in front of public of the same area. It is further submitted that the reporter had met the Respondent in connection with the harassment by some MCD officials for raising construction in Joshi Colony, which comes

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under the DDA. The Respondent being a Councillor of the area concerned had simply assured that nobody from the MCD would harass as the area comes under DDA and there is no role of MCD. Even the husband of the Respondent had reiterated this fact.

The Ld. Counsel for the Respondent Shri Rajesh Pathak, had made submission that the Respondent has done considerable good work in her area and thus earned a lot of respect and goodwill. The Ld. Counsel further submitted that there has been a deliberate attempt to entrap and induce the Respondent into saying few things. He further submitted that no money had been offered to the Respondent and the transaction regarding offering of money with the husband of the Respondent took place outside the office and not in front of the Respondent. However, it is of no significance. By telling the reporters that they could talk to her husband, the Respondent has authorized her husband to represent her.

Ld. Amicus Curiae Shri Sanjeev Mahajan, in reply, submitted that the talk of taking or giving money has been carried out openly without any hesitation. As regard the submission that the area falls under the DDA and was not in the jurisdiction of the MCD, he urged that if it is correct, then element of deception is also involved in as much as money is being sought to be collected on the assumption that MCD can cause problems. The Ld. Amicus Curiae referred to a case in BALDEV SINGH GANDHI V/S STATE OF PUNJAB & ORS (2002) 1 SCR 1022, in which case the Hon'ble Supreme Court has dealt with the expression "misconduct", taking its colour from the context.

Evaluation of the Conduct of Respondent as Unravelling by the Transcript and Consideration of the Reply and Pleas in Response.

10. The Respondent is a public functionary as defined in Sec. 2(m) of the Delhi Lokayukta & Upalokayukta Act, 1995, being a

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member of the Municipal Corporation of Delhi. A public functionary has to act within norms of integrity and conduct which is expected from a person holding the position of power and control in the society. The law does not specify any code of conduct for the representatives of the people for their day to day life while dealing with people they represent. However, the norms of integrity and conduct need not be specified because any act out of purview of the norms of integrity and conduct itself stands out and even a layman can point out that a specific act does not behove a public functionary. In nutshell, a public functionary has to set an example for the public by maintaining high level of sincerity, integrity, honesty, by rising above personal and vested interests, favouritism and nepotism and by avoiding any pecuniary or other benefits which are not due. A public functionary has to set an example of good governance, being the holder of public trust.


This Forum is to ascertain whether the act and conduct imputed to a public functionary is within the norms of integrity and conduct expected from a public functionary or is an abuse or misuse of power by an act actuated by improper motive or personal interest showing favour, lack of faithfulness or is an act leading to undue pecuniary benefit to public functionary, availed by virtue of his/her status and position.

Here is a Respondent, who is a Councillor in the Municipal Corporation of Delhi. The sting operation conducted by two reporters of Cobra Post in arrangement with Channel IBN-7 shows the Councillor indulging in conversation which at the very outset reflects that the Respondent has the tendency of hobnobbing with unscrupulous builders, who raise unauthorized constructions posing hazard to the life and health of the citizens. At the very outset, it may also be stated that the channel IBN-7 claims that sting operation was carried with the object of exposing the menace of unauthorized construction and the complicity of the Municipal Councillors and staff of the

Corporation. Thus, the sting operators have acted as whistleblowers and no fault can be found with their act. The above finds support in the observations of the Hon'ble Supreme Court in the case of R.K. ANAND V/S REGISTRAR, DELHI HIGH COURT, (2009) 8 SCC 106 and the judgment in ANIRUDHA BAHAL V/S STATE 172 (2010) DLT 268, endorsed this view.

Ld. Counsel for the Respondent had taken a plea that the sting operation telecasted on the TV by Channel IBN-7 has been so picturised and edited as to reflect that the Respondent had agreed for illegal gratification and the purpose of this telecast was simply to increase the TRP and the popularity of the channel. So far as this submission of the Ld. Counsel is concerned, it may be stated that whatever was recorded during the sting operation, it was played and viewed at the time of hearing before this Forum and the agreed transcript was prepared with due involvement of the Respondent and her Counsel. The Respondent has not taken any exception to the transcript which has been finalized. So, the authenticity and genuineness of the transcript cannot be now questioned. This Forum is concerned with the actual transcript of conversation. In case Respondent finds any imputation defamatory in the telecast, it is for the Respondent to seek legal remedies there for.

The Ld. Counsel for the Respondent has submitted that the Respondent is an honest and devoted worker who is serving the area for the last 20 years in public interest. He further submitted that it is highly improbable that the Respondent who is a respected citizen would be discussing the matter of illegal gratification in open sitting in front of the public of the same area. This Forum is concerned with the conduct of the Respondent which is reflected in the sting operation. Even otherwise her good work as claimed, cannot wash away the conduct in negotiating illegal gratification for unauthorized



construction. To say that the Respondent would shy away from indulging in such acts of discussing matters of illegal gratification in the open sitting in front of the public would be to underestimate the conduct which is shown in the sting operation. It is unfortunate that a Councillor through her husband or herself had no qualms about such talks even in front of members of public of the same area. This brings to fore the need for building up strong public opinion and respect for moral values, resulting in zero tolerance for corruption and misconduct, especially among persons holding positions of public trust.

Reference to certain portions of the transcript of the conversation between the reporter (posing as builders), on the one hand, and the Respondent and her husband and their accomplice is necessary in this context.

- (a) The transcript of the conversation shows that the reporter approaches the Respondent posing himself to be a builder stating that he had done construction work in Ghaziabad area and now he intends to do construction work in the area of the Respondent. The Respondent and her husband specifically ask the reporter about the location, where the construction is to be raised. The reporter then tells the Respondent about the purpose of his visit. He states that his brother had faced lot of difficulty, while raising construction at Mother Dairy and he refers to the JE of the area from whom they faced problems. He expresses his desire to seek the blessings of the Respondent for raising construction in her area to avoid any problems from the JE. The Respondent gives assurance to the reporter. Her husband also lent assurance that no MCD person would come and the reporter will not face any difficulty from the MCD, although he cautions the reporter that he will have to tackle the DDA and the police, on his own.

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This conversation leaves nothing to imagination. The Respondent and her husband had given assurance to the reporter for raising construction in the area, they assured that MCD officials will not cause any difficulty in raising the construction. The reference is obviously to unauthorized construction without sanctioned plan or in excess of what is permissible as otherwise there is no question of tackling them. The Respondent, in entire conversation, has not stated the reporter (posing as builder) has any sanctioned plan for construction nor reporter says that he intends to raise construction as per law. Therefore, necessary and logical inference which can be drawn is that the construction work, for which Respondent is offering her help and support, is not legal/authorized.

- (b) The second limb of the conversation is with regard to money which is to be given. When the husband of the Respondent told the reporter that he himself will have to take care of the police, the reporter states that the police people take money. The reporter then addressing the husband of the Respondent asks him about the amount. The husband of the Respondent does not specifically answer the query but smilingly states that whatever it would be, he (reporter) will be informed. This gesture of the husband of the Respondent is nothing but an acceptance of the proposal to help out the reporter in raising construction for monetary consideration.
- (c) The reporter specifically asks the husband of the Respondent about the exact amount. He refers to a sum of Rs. 3.00 Lacs, which has been demanded. The husband of the Respondent stated that whatever has been told, it must be right. Later on in the conversation, the person who is being addressed as Insp. Sharma in the conversation asks the reporter that he has to tell the

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budget. When the reporter says "3 Lacs", the husband of the Respondent nods in affirmative. Later on, in the conversation when the reporter asks that he wants to discuss the amounts in front of Madam (Respondent), the person called Insp. Sharma states that they do not talk about money and it is he who decides and finalizes.

- (d) A pertinent part of the conversation which has acquired a great importance in the present matter is where the Respondent states, "Nahi.. Mai Thoda Aise Karungi. Jo Ye Arvind Hai Na... Aap Jo Kuch Bhi Kaho Arvind Se Kaho.." These words uttered by the Respondent have not been disputed by the Respondent. There was no objection with regard to the transcript which contained this sentence. However, when the Presiding Officer asked the Respondent as to who was this 'Arvind', who has been named by her, the Respondent had stated that she does not know any Arvind. This conduct of the Respondent shows that she deliberately did not acknowledge her acquaintance with the said Arvind while her sentence reflects confidence in him. The Ld. Counsel for the Respondent had further argued that there was no question of seeking any gratification on account of protecting the reporter (posing as builder) from the officials of the MCD because none of the area of her constituency comes under the MCD. He submitted that the constituency of the Respondent consists of Group Housing Societies, Unauthorized Colonies – Madhu Vihar and Joshi Colony, which are in the jurisdiction of DDA. He submitted that the Respondent being Councillor of the area of Joshi Colony had simply assured the reporter that nobody from MCD would harass as the area comes under DDA and there was no role of MCD.

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11. Ld. Amicus Curiae, Sanjeev Mahajan, on the contrary, considered it to be a rather very serious act and submitted that if it is assumed that the area falls under the DDA and not in the jurisdiction of MCD, then deception and cheating would be involved because money was being sought on the assumption that MCD can cause problem and the Respondent would protect the builder from the MCD.

He refers to the judgment in BALDEV SINGH GANDHI V/S STATE OF PUNJAB & ORS (supra) in which the Hon'ble Supreme Court had dealt with the allegation of "misconduct" against a Municipal Councillor. The Hon'ble Supreme Court had observed that the word "misconduct" is anti-thesis of the word "conduct", and ordinarily the expression of misconduct would mean, "wrong and improper conduct, unlawful behavior, misfeasance, wrong conduct, misdemeanour etc.".

It is pertinent to mention here that in the judgment, it is stated that the expression "misconduct" is to be considered with reference to the subject and the context in which this expression occurs.

12. Now coming to the conduct of the Respondent, it is obvious that the Respondent has shown her willingness to support the raising of construction and providing protection from the MCD officials. The husband of the Respondent and the Respondent assured the reporter that he will not face any difficulty from MCD. The gratification for providing this support was also discussed by them. Thus, the willingness of the Respondent to encourage and facilitate unauthorized and illegal construction is writ large in the conversation recorded in the transcript. The tone and tenor of conversation suggests that the Respondent has "misconducted" herself and has transgressed the norms of conduct and integrity by "misuse" of her power. It is common knowledge that being the Councillor and representative of the people, she must be having a clout on the officials of the

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Municipal Corporation which she promised to utilize for improper and illegal purposes.

13. The above act and conduct display failure to act in accordance with the norms of integrity and conduct which ought to be followed by public functionaries. Besides, it is also abuse and misuse of position as it manifests conduct to gain favour for herself in as much as the amount to be Respondent's share was to be decided later. Assurance to help in unauthorized construction tantamounts to discharge of functions being actuated by improper motive for personal interests. It also constitutes lack of faithfulness to her functioning as a Councillor. Thus, there is contravention of Sec. 2(b) (i) to (iv) of the Act.
14. The menace of unauthorized construction has pervaded the metropolis of Delhi. It is not confined to a superficial level or the surface. It has entered the very blood stream of Delhi. There are various reasons for the same, galloping population, rising demand for accommodation, non-availability of the same, which tempts the residents to expand vertically and horizontally in contravention of the permissible limits. Complex laws and unresponsive system have also aggravated the problem. Unabated growth of unauthorized construction also emanates from lack of enforcement and implementation of the municipal laws. The situation gets further aggravated on account of complicity of the municipal staff, city fathers, local politicians and the police. In an attempt to contain the role of public functionaries and Councillors in this menace, this Forum had on complaint from one Councillor initiated action in 61 cases against the legislators and Councillors for unauthorized construction and irregularities in their properties. It was a matter of satisfaction that in majority of these cases, the public representatives have either voluntarily demolished or got regularized the violations.

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It is well settled that the higher the office the greater the responsibility and higher the expectation from the said person for observance of the norms of integrity and good conduct.

15. In view of the foregoing discussion and the analysis, there is no doubt that the Respondent has failed to observe the norms of good conduct and integrity expected of a person of her class by entertaining, discussing and indicating her willingness to support the reporter/builders, who were to carry out unauthorized construction, for illegal gratification.
16. The Ld. Amicus Curiae, Mr. Sanjeev Mahajan, has submitted that the misconduct of the Respondent is grave and calls for a censure in the least. He further submits that the facts emerging in the transcript may constitute offence under the Prevention of Corruption Act and IPC. He submits that the above evidence being legal evidence recorded in deemed judicial proceedings should be forwarded to the appropriate investigating agency for consideration as to whether it constitutes offences under the Prevention of Corruption Act and IPC, warranting any further action and this Forum is duty bound to do the same. It is ordered accordingly. The transcripts and other evidence as recorded before the Forum be forwarded to Commissioner of Police for consideration and evaluation.
17. While recommending that the Respondent be administered a "Censure" by the Competent Authority, this Forum is conscious of the fact that the Respondent is no longer holding the post of Councillor. Upon initiation of the inquiry by the Lokayukta, the Councillors involved in the sting operation were not given tickets by their respective parties for contesting the elections. Resultantly, at present the Respondent is not an elected Councillor. However, it would be appreciated that while there may be some reduction in the clout of the Councillor when holding Office and otherwise. He continues to be in public and political life. He does not cease to be a part of the public life or the polity. Besides, the stream of public life has to be kept

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unsullied and unpolluted from the influx of corruption and other wrong doings. This requires inculcating high moral and core values in conduct of those holding positions of public trust and in public life, with no tolerance for the corrupt or those indulging in misconduct.

The above would not be feasible if public functionaries who are found to be guilty of misconduct escape punishment for the reason that they are not in power or not having the same clout.

Administration of penalties such as caution, censure etc. is expected to usher in the cleansing process to keep the stream of public life clean and unsullied. Moreover, the statute itself provides for cognizance being taken for 5 years from the date of the cause of action for the act complained of, indicating that there can be no escape of penalty for past acts also.

In view of the foregoing discussion, the Respondent Councillor, who has been found to be in violation of norms of integrity and good conduct, abuse of position to obtain gain for herself, being actuated in discharge of her functions by improper motives and personal interest and lack of faithfulness, in terms of Sec. 2(b) (i), (ii), (iii) & (iv) read with Sec. 7 of the Delhi Lokayukta & Upalokayukta Act, 1995, deserves to be administered a "censure" by His Excellency, the Lieutenant Governor of Delhi, and is so recommended.


(Justice Manmohan Sarin)
Lokayukta

Date: 10/11 July, 2012