

**BEFORE THE HON'BLE LOKAYUKTA**  
**JUSTICE MANMOHAN SARIN**  
**Complaint No. C-1145/Lok/2011**

**Re- In the matter of a report titled 'Sting Operation Ke Baad Parshado Me Macha Hadkamp', appearing in 'Nav Bharat Times' dated 07.12.2011.**

**And**

**In the matter of inquiry u/s 7 read with 2(b) of the Delhi Lokayukta and Upalokayukta Act, 1995 in respect of the conduct of Ms. Beena Thakuria, Municipal Councillor.**

Present:-

1. Shri K.K. Jha and Shri A.K. Mishra, Advocates, for Ms. Beena Thakuria, Respondent Councillor.
2. Shri Sanjeev Sharma, Amicus Curiae.
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/recording 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 as CW-1 and CW-2 with direction to keep their identity Confidential under Section 14 of Delhi Lokayukta and Upalokayukta Act, 1995. 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. 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 Sharma, Advocate, was so appointed vide Order dated 16<sup>th</sup> January, 2012. The Respondent entered appearance through Shri K.K. Jha and Shri A.K. Mishra, Advocates, and filed her reply-cum-written statement on 13-02-2012.

In view of the ensuing municipal elections, Respondent Councillor among others made a fervent plea for expeditious disposal of these inquiry proceedings so that if allegations are

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not proved, she stands exonerated without delay, so as not to affect her election prospects.

**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 Counsel 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, 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 are agreed that based on the pleadings and transcripts as finalized, the Lokayukta would fix the date of hearing in the individual cases.
- (iv) Parties are 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 Transcripts 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

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were played and re-played several times in the presence of the Respondent Councillor and the Counsel for Respondent and Amicus Curiae and the Advocate for IBN-7 Channel.

6. During the playing of the recording of the raw footage, the Respondent, her Counsel as also the Counsel for the Channel and the Amicus Curiae gave their inputs to reach a consensus. The Forum also placed on record the cooperation of the Counsel 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 9-2-2012 is annexed hereto as **Annexure-II**. The Respondent and her 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/builder.

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The reporters posing as builders had met the Respondent with a prior appointment. The reporters/builders introduced themselves to the Respondent. The Respondent asked the reporters/builders as to where and what is being constructed by them. The reporters/builders say that they build in collaboration and also tell about the location where they intend to raise the construction. Further they seek the blessings of the Respondent for starting work in her area. The reporters/builders then say that they have purchased two plots of 25 sq. yd making it a single plot of 50 sq. yds. and intend to construct up to 4<sup>th</sup> floor and possibly up to 5<sup>th</sup> floor. Respondent offers her help to the builders. The reporters then express their apprehension regarding the problem which can be caused by the Junior Engineer. The respondent assures them that in her area there is no headache or difficulty with the JE as she is there to take care of it. She then asks the reporters/builders, where else they are getting work and offered the desired help telling them to be in touch with her. The reporter/builders further say that they would start construction immediately and would probably finish in three months and what they require from the respondent is that there should be no obstruction in construction, the JE should not come and pose a problem and request the respondent to take the whole responsibility, as they are new in the area. The respondent again assured the reporters that without her consent JE cannot do anything and JE will act as per her wishes. She further adds that more than JE it is the beldar who roams around like a dog to verify where and what is being constructed. She further asked the reporter/builders to start their work. The reporters/builders then ask about the expenses for the JE.

The reporter/builders explained that they plan a budget for the project say Rs. 50 lacs or a crore. However, if demands are made for Rs. 25000/- for one person and 25000/- for another then it upsets the whole system. They have a profit of Rs. 2.00 lacs and therefore, they want to know expenses in advance.

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The Respondent says that she will enquire about the expenses of the JE and adds that JE will come only with her consent. She will discuss the matter with him as his mouth is also to be shut. She cautions the reporters that JE should not be told that they are builders as that would raise his demand and tells the reporter that they should tell JE that they are persons known to her. When the reporter ask about the budget on account of JE the respondent says that he would not take less than one lakh. When the reporter asked about the share of the respondent, she parries and defers asking them to specify the amount but when reporter/builders ask whether it will be less or more than JE's share the respondent responds curtly by saying that she takes responsibility of everything yet the (reporters/builders) want to dupe and sideline her. The respondent when asked about her share she says that she wants to hear it first from them (reporters). The reporter says that they have no idea of that area and asked how much Panna Lal, Councillor, Ward-183 takes. Respondent says that nobody would tell as to how much he would take and nobody will tell her as how much he is taking. The reporters then ask what the prevalent rate is. The respondent says it will not be less than 4 or 5 lakhs. The reporters then asked the respondent how much they should expect for her. The respondent says that he (reference is to another Concillor) is taking Rs. 5 lakhs and that she is not of inferior standing than him to take less. She further says that she is going to contest election which cannot be contested without money. When the reporters say that it would take one month time to start work the respondent shakes her head in disappointment.

In between somebody knocks at the door and there is a digression in the discussion between the reporters and the respondent which is not relevant to the present inquiry.

Further conversation relevant to the present inquiry comes later and the reporter again asks the respondent about her

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share. The respondent says that what she said about Khairwaf, they should take the said amount. The reporter mention 5 lakh rupees to which the respondent says that it is not sufficient as she will take all the headache and responsibility. The reporter/builders then pose a query whether share of the JE will be separate, the respondent said that share of JE would be separate. The reporter/builders then ask the respondent to settle for rupees 6 lakh. The respondent says that the JE's share would be separate and insist that her share and the share of the JE would be separate.

Thereafter the respondent and the reporters fix a time for the visit of the respondent to the site. Further conversation is general in nature, where the respondent speaks about her conduct, her behavior and her future plan for election and she tells the reporters how she has always been helpful to people.

**Response and Submissions of the Respondent :-**

9. The Respondent filed reply in response to the notice, under Sec.7 r/w Sec. 2(b) of the Act.

Respondent states in her reply that the sting operation and the news item in Nav Bharat Times on 07-12-2011 are totally false, frivolous and baseless and are the outcome of the malafide intention on the part of the reporters, who had approached her seeking some illegal help for getting a building constructed unauthorisedly in the Ward No. 182, Ambedkar Nagar, New Delhi. The respondent had politely declined to render illegal and unreasonable help to them. It is further submitted that the reporters in collusion and connivance with some other persons have illegally tampered with the originally recorded conversation and they telecasted the sting operation with a malafide intention to tarnish the unblemished career of the respondent. It is further submitted that the reporters tried to in trap her by giving offer of illegal gratification and she never spoke the words qua the illegal gratification or the demand of

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money. It is further submitted that the reporters had visited her residence in June 2011 asking for help against the MCD rules and regulations for raising unauthorized construction in Ward No. 182. It is further submitted that the reporters had extended a threat to her, while leaving her office, that they would defame her if they are not given help. It is further submitted that one of the reporters had given a phone call to the respondent in September 2011 asking for rupees 5 lakhs failing which he would defame her by telecasting the conversation which took place between them.

It is submitted that the sting operation is the misuse of a privilege given to media and it has been used as a tool for black mailing the respondent. It is further submitted that the CD which has been shown is tampered and CD which has been produced before the forum and supplied to the respondent is not the copy of the original conversation which took place between the respondent and the reporters.

10. The broadcaster i.e. the channel IBN-7 also preferred to file objections to the reply cum written statement of the respondent. It was submitted that TV 18 Broadcast Limited is a company incorporated under the provisions of the Companies Act, 1956 and owns TV news channel IBN-7. The news channel is engaged in providing news and news items through the electronic media to the general public. It is submitted that the transmission of news is totally objective and without any personal bias. It was specifically and vehemently denied that the reports has been selectively edited or doctored. It was denied that the under cover story broadcasted was motivated by extraneous and malafide reasons particularly to tarnish the image of the respondent. It is submitted that keeping in view the nature of facts the undercover operation was necessary and that the telecast was made in good faith and for bonafide public good. It was specifically denied that one of the reporters had

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called the respondent in the month of September 2011 and had asked for Rs. 5 lakhs.

It is submitted that the respondent not only talked about the problems in illegal construction but also inquired that how much the other councillors charged and she also assured about the possible help she could extend and the amount of money/gratification would be required to be paid to her. The relevant portions of the transcript have been quoted in the objection to support this submission.

**Evaluation of the Conduct of Respondent as Unravalled by the Transcript and Consideration of the Reply and Pleas in Response:-**

11. At the outset, it is to be noted that the averments made in the response of the Respondent that the originally recorded conversation had been tampered with is no longer available to the Respondent. This is in view of the fact that the footage of the recordings of the conversation of the Respondent was duly furnished to him. The said recording was duly played in the court and replayed and wherever any doubt was expressed, the same were heard and resolved till finally the agreed transcript "CV" emerged. The Respondent had been given full opportunity to point out any errors in the transcript or the recording and once an agreed transcript had emerged with consent of parties and with formal proof having been dispensed with the above plea, is no longer available. Respondent has neither led any evidence in support of her averments regarding earlier visit of reporters in June, 2011 and the alleged demand of money and threat, nor these were pressed during arguments.

Counsel for the Respondent as also Ld. Amicus Curiae and Counsel for the Broadcasters were heard and they made their respective submissions. Ld. Counsel for Respondent Sh. K.K. Jha submitted that the sting operation was unethical and illegal and was done with a malafide intention. The Ld.

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Counsel has submitted that illegitimate trapping, as in the present case, has not been accepted by Courts. He submitted that the Respondent has neither accepted nor denied any actual bribe and these were mere drawing room talks qua the construction of the building and help to be given to those persons, if required. It is submitted that in the case of In Re : M.S. Mohiddin (AIR 1952 Madras 561) the distinction between legitimate and illegitimate traps has been laid down. An "illegitimate trap" is defined as one where the offence has not yet been born and a temptation is offered to see whether an offence would be committed or not. The Ld. Counsel also relied on the judgment (i) AIR 1956 SC 643 titled Ramjanam Singh Vs State of Bihar (ii) 146 (2008) DLT 429 titled Court on its own motion Vs. State, to support his argument.

The Ld. Amicus Curiae Sh. Sanjeev Sharma, however, relied upon the judgment in R.K. Anand Vs. Registrar Delhi High Court 2009(8) SCC 106 to counter his argument and submitted that the Hon'ble Supreme Court has observed that the sting programme telecast serve an important public cause and the Supreme Court has further said that the sting operation was indeed justified in larger public interest.

He also submitted that even in United Kingdom an undercover investigation by journalists, by portraying as prosperous drug dealers, was not considered amounting to entrapment, as the Respondent in that case at all time had acted out of his own choice. He argued that same is the case here as the Respondent herein has acted on her own volition and held out a promise to help the builders in doing illegal act, for a monetary consideration. As per his further submission investigative journalism in which the ill of the society is exposed has been upheld by court and there is no illegality in such exposure.

12. The judgment of the Madras High Court (AIR 1952 Madras 561) has dealt with issue of entrapment. It has drawn a



distinction between legitimate and illegitimate trap. The High Court of Delhi had the occasion to consider the legality of a sting operation in the case of Aniruddh Bahl Vs. State, 172 (2010) DLT 268, wherein an FIR registered against the sting operators under Section 12 and 13 of the Prevention of Corruption Act was quashed. The Court held that FIR was registered after one year with sting operators being arraigned as prime accused. Court found the act of the sting operators as bonafide who had acted as whistleblowers by airing the tapes on TV channels and by deposing truthfully before two Committees of Parliament. Charging such people with offences under the Prevention of Corruption Act would amount to travesty of justice and shall discourage people from performing their duties enjoined upon them by law of the country. The court held that the duties prescribed by the Constitution of India for citizens of the country do permit citizens to act as 'agent provocateurs' to bring out and expose and uproot corruption. This observation of Delhi High Court obviates the distinction drawn by Madras High Court between legitimate and illegitimate trap. Besides in the instant case ingredients of offence under Prevention of Corruption Act, prima facie, appear to be satisfied. Hence, question of offence not being born does not arise. In R.K. Anand Vs. Registrar, Delhi High Court, 2009 (8) SCC (supra) i.e. the appeal against the judgment of Delhi High Court in Court on its Own Motion Vs. State and Ors 151(2008) DLT 695, the Supreme Court while dealing with stings and telecast of sting programmes observed in Para-179 as under :-

“Looking at the matter from a slightly different angle we ask the simple question, what would have been in greater public interest; to allow the attempt to suborn a witness, with object to undermine a criminal trial, lie quietly behind veil of secrecy or to bring out the mischief in full public gaze? To our mind, the answer is obvious. The

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sting telecast by NDTV was indeed in larger public interest and it served an important public cause.”

13. The sting operation, in the present case, was also for public good to expose the menace of unauthorized constructions and the complicity of the City Fathers therein, who instead of taking steps to curb this menace, mix up with builders and assure their support for raising unauthorized constructions. Any act which exposes this unholy nexus of the representatives of people and unscrupulous builders, is in the larger public interest. So the sting operation serves an “important public cause.”
14. Therefore the argument that the sting operation was unethical, illegal and was with malafide intention cannot be accepted. The conversation which took place between the reporters and the Respondent makes it amply clear that the Respondent not only gave assurance to the reporters posing as builder to help them in raising the construction but also sought a gratification for such a help. The tone and tenor of the conversation clearly brings out that the reporters were suggesting raising of illegal construction for which they received tacit consent and approval by the Respondent for financial gains.
15. The conversation between the reporters and the Respondent clearly shows the interest of the Respondent for raising/construction by the reporters expecting a financial reward for providing her help and assistance to them in doing such an act by exercising her influence with JE whose official duty is to stop unauthorized construction.
16. The Respondent has assured her help to the reporters, she discussed the size of the plots, the number of the plots and also the nature of construction to be carried out. When the reporters/ builder tell her that they wanted her help to make sure that there is no difficulty and obstruction in their work as they are new to the area, and they expressed their apprehension about the problems which can be caused by the JE, the Respondent

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assured that they (reporters/builders) would not face any problem from Junior Engineer (JE) in her ward and she would take care of all. She further states that JE would not go against her wishes, which in other words imply that JE would follow her dictates. Thus, the Respondent shows her capacity to exert personal influence upon the JE. It is considered useful for the purposes of illustration to quote from the excerpts of conversation as they appear in the transcript sequentially in the narration. The answer to the queries by the Councillor give an insight into her mind and open and disclose the same as also her intentions, apart from the agreed consideration which eventually emerges.

“Beena : Agar aapko kaam mil raha hai toh woh batao mujhay, kahan kahan aapko kaam mil raha hain. Uskay liye jaise help hogi main karungee. Theek hai na.”

The reporters/builders inquire about the expenses required for the JE. The Respondent assures the reporters that she would discuss with JE. This also shows her proximity with the JE.

“Beena : JE toh kher han hamari sehmati key bina kuch nahin kar sakta hain. Lekin ye hain ki matlab JE bhi hamarey kehney se chalega. Adhiktar toh JE ko itna time nahi hota hein jitna (Beldar) ko time hota hain.... woh kutay ki tarah ghumta hai jaisay kutay ko haddi nahi milti.”

17. During the conversation the reporters wanted to know as to how much the Respondent will take and whether they would have to pay her an amount more than that which is paid to the JE or less. The Councillor’s reply to such a query opens her mind. It is considered useful to quote that part of conversation.

Beena : Meri sehmati se aayaga JE to ..... Mai uskay saath discuss kar lungee mai bethkarke. Dekho uska bhi moonh band karna padayga aur uska bhi moonh band karna padayga. Lay bhaiya yeh hai aur chutti karo.”

“Reporter: Fir bhi...JE se kam rakhe aapka ya jyada?”

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Beena : Ha ha sambhalun mai, bhugtu mai...saari cheezo ko cooperate karke chalun mai...aur mujhe hi tum fatte laga rahe ho.” (I manage, I suffer and coordinate everything and you want to take me for a ride).

18. The expectation and demand of the Respondent for illegal gratification is further evident in the later part of the conversation. The reporter asked the Respondent as to how much Panna Lal Councillor Ward No. 183 takes? Respondent replies that nobody tells as to what one is taking. When the reporter against asked the Respondent said that he may not be taking less than 4/5 lakh. The reporter then specifically asked her how much they should expect for her and asked whether 2 will be sufficient.

Beena : “woh 5 le raha hai toh mai kya bilkul itni ghatia kwality ki hun (if he is taking 5 am I of so inferior quality).

Beena : “ Mai ek baat bataun chunav ladnay ja rahi hu toh chunav se pahlay bhi to chahiye ..... chunav bina paison kay to lada nahi jata hai.”

19. Later on in the conversation the reporter and the Respondent come to the main point. The reporter asked that how much they should take as her share, to which the Respondent said as much as she told about Kherwal. The reporter questioned, “5 lakh rupees?” The Respondent found it less and said that the share of the JE would be separate. Then the reporter gave the figure of Rs. 6 lakh. The Respondent says that the share of the JE should be separate and after giving consent for this amount the Respondent asked the reporters that she would like to visit the site first.
20. Another portion of the conversation which shows the eagerness and the urgency of the Respondent for the illegal gratification in lieu of her help to the Respondent may also be noted. When the reporters said that during election they will finish the building the Respondent said that she is going to contest in election and

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she also need something before the election as election cannot be fought without money. Then she questions the reporters eagerly when will they start the work. The reporter said that it will take a month and the Respondent expresses her disappointment by the gesture of her head.

21. The entire conversation primarily concerns the raising of illegal construction. The Respondent is the Councillor who cannot be oblivious of the menace of the illegal construction. The respondent's positive, eager and willing response to a request by the reporters to use her position as a Councillor to help them in raising unauthorized construction militates against the public duty of a Councillor, who is to act against any proposed, ongoing or completed unauthorized construction in the area falling under her jurisdiction. It is not the part of a public duty of the Respondent who represents thousands of persons in her jurisdiction to give encouragement to unauthorized construction by promising help in such activities by exercise of her personal influence with a public servant. Rather, it was her duty to bring to the notice of the authorities concerned any instance of construction without sanctioned plan. The desire to appease the constituents or furthering of so called electoral prospects by extending help in such activities, cannot over ride the norms of conduct and integrity which a public functionary is expected to follow.
22. 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 also decided. Assurance to help in unauthorized construction, tantamount to discharge to 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 Section 2(b)(i) to (iv).

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23. 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.
24. The Ld. Amicus Curiae, Mr. Sanjeev Sharma, 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 prima facie disclose an offence under Section 8 and 9 of the Prevention of Corruption Act. 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 an offence under the Prevention of Corruption Act and warrants any further action and this Forum is legally 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, evaluation and further action in accordance with law.
25. We have also considered the aspect that the Councillor whose conduct was being inquired into by the Lokayukta following the sting operation was not provided ticket by their respective parties in the then forthcoming elections. This resulted in the Councillor not contesting election and thus ceased to be a Councillor. We have also considered whether the above should make any difference on the recommendation of 'Censure' for them. It is a well settled legal principle that misconduct does not cease with the office term coming to an end. Moreover, as far as political life, with all its vicissitudes, is concerned, a Public Functionary who does not fight a particular election does not cease to be in active politics or in public life. Our experiences have shown that he/she may aspire for and come for even higher positions. Moreover, for maintaining probity in



public life, it is essential that the constituents are also made aware of the misconduct of their respective representatives which is in consonance with their right to receive information about the deeds of public representatives.

From the foregoing discussion, it is our view that the factum of a Public Functionary ceasing to hold office should not come in the way of a recommendation for his/her 'Censure' being made and the above is submitted for the kind consideration of His Excellency, the Lt. Governor.

26. The conduct of the Respondent Councillor as evidenced from the transcript of conversation marked "CV" clearly amounts to 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.

It is, therefore, recommended to His Excellency, the Lieutenant Governor of Delhi, that a "censure" be issued to the Respondent Councillor for her misconduct as found above.

  
(Justice Manmohan Sarin)  
Lokayukta

Date: 3rd August, 2012