

BEFORE THE HON'BLE LOKAYUKTA
JUSTICE MANMOHAN SARIN
COMPLAINT NO. C-1616/LOK/2012

In the matter of:-

Shri Sushil Kumar Complainant

Versus

Shri Hari Shankar Gupta, MLA Respondent

ORDER

1. The Complainant's grievance in this case is regarding the non-implementation of the directions and orders passed by the Chairman, Public Grievances Commission, by which he had directed the demolitions of the constructions raised on the Bathroom plots in Wazirpur, JJ Colony, Delhi, and the role of the Respondent MLA in delaying the implementation of the said orders and creating impediments in their implementation.
2. There is no formal complaint filed in the prescribed form under the Delhi Lokayukta & Upalokayukta Act, 1995. The Complainant's communications have been treated as "other information" for the purposes of the inquiry. The main plank of the submissions of the Complainant has been that despite the directions dated 14-03-2012 and 14-05-2012 by the Public Grievances Commission to the Delhi Urban Shelter Improvement Board to carry out demolitions of properties No. L-113A, Wazirpur JJ Colony and L-115A JJ Colony Wazirpur, Delhi, demolition was not carried out on account of the intervention of Shri Hari

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Shanker Gupta, Respondent MLA and Shri A.K. Walia, Minister, GNCT of Delhi, both being 'public functionaries'.

3. Initially, the Complainant had not sent any documents in support of his allegations. A communication was thereupon sent to him to visit this Office to provide specific particulars of his grievances and complaint. The Complainant thereafter sent an e-mail followed by copies of some documents whereby police assistance had also been sought for the demolition programme for the Bathroom plots. The same was not carried out due to the alleged intervention of the 'public functionaries'.
4. Repeated communications were addressed to the Complainant to furnish proof in support of the allegations sought to be made. However, barring the bald allegations that the demolition was not taking place on account of the Respondent Hari Shanker Gupta, MLA, who had been bribed by the land mafia, nothing concrete was forthcoming. One of the Bathroom plots to be demolished belonged to Shri Ram Krishan, father in law of Smt. Sonia, Councillor of Ward No. 68. This the Complainant claims was an additional factor in stalling the demolition programme.
5. The documents produced by the Complainant show that forty one Bathroom plots that were unauthorisedly occupied with constructions raised thereon were sought to be demolished by DUSIB. However, on the date of demolition the operation was discontinued and only Bathroom plot No.L-113 was partly demolished. It is stated that the Respondent used his influence along with the intervention of Shri A.K. Walia, Minister in Govt.

of NCT of Delhi. The Respondent had even visited the police station for the purpose. Moreover, the Respondent had intervened to help Shri Ram Krishan, father in law of Ms. Sonia, Municipal Councillor, Ward No.68, who was in illegal occupation of Plot No. L-155A.

6. A Show Cause Notice was directed to be issued on 6-9-2012 to the Respondent Shri Hari Shanker Gupta to show cause against the allegations of thwarting the demolition operation and the alleged abuse, misuse of his position. He was asked to show cause why the allegations be not inquired into.
7. There was nothing on record to support the allegations sought to be made against Shri A.K. Walia, Minister, Govt of NCT of Delhi, except that in his capacity as a Minister, a representation was addressed to him against the demolition. Accordingly, no case for issuance of notice was made out against Shri A.K. Walia.
8. The Respondent was duly served, who has filed his reply. The Respondent candidly admits that in discharge of his duties as a duly elected representative of the public he responded to the entreaties of his electorate, to represent against the demolition. However, on gathering the necessary information regarding the action being taken by DUSIB with police help, he did not cause any obstruction in the discharge of their duties, who did take action as per schedule.
9. The Respondent had no role whatsoever in the demolition that the Complainant had suffered when he was evicted from his abode i.e. a Bathroom plot sometime in December 2004. The Respondent

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was not even an MLA at that time and became an MLA only in 2008. The Respondent further explained in his reply that at present 40-50 families accounting for almost 250 persons have been living in the area known as JJ Colony Wazirpur, who are in possession of their respective tenements. Most of them are on electoral list and in possession of valid ration card and voter ID cards. They have been provided with electricity connection. He further explained that as far as forty one of these bathroom plots are concerned, a new sewage line had even been laid. Accordingly, the original purpose for which these plots namely 'location of toilets to be constructed' in fact, ceased to exist and the question regarding whether in these circumstances demolition should take place was pending consideration of the authorities. The proposal was to explore the possibility of regularizing the occupation of residents to avoid 40-50 families being rendered homeless. The Respondent had exercised his legitimate right to put forward the concerns and pleas of the affected persons but did not cause any obstruction or come in the way of demolition as ordered. The Respondent in particular had no hand whatsoever and was not even an MLA when the Complainant's plot/abode was allegedly demolished in 2004.

10. On going through the voluminous documents, representations addressed by the Complainant to the President of India and down to the bureaucratic hierarchy, it is not difficult to understand the anguish and the brooding sense of injustice which the Complainant nurtures. This is because, he himself suffered

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eviction from a Bathroom plot on the ground that the same was illegal and unauthorized, while the way the events have unfolded, he finds that over a period of time, with passage of years, those who remained in occupation have prospered and are in occupation and have built double and three storeyed buildings. Now proposals are being made for regularization of the existing Bathroom plots with structures. It is this brooding sense of discrimination and being unjustly treated, which has left the Complainant a disturbed man in anguish. Few days after the hearing had been closed, he sent a communication dated 8-10-2012 which was forwarded to this Forum by the Deputy Secretary (PGC), wherein he stated that the Respondent had become so disturbed on account of the complaint before the Lokayukta that he may involve the Complainant in a false case or engineer a life threatening attack on him or his family since according to him political leaders can get anything done. The above letter, in the absence of disclosure of the basis of such an apprehension was directed to be kept on record to be considered if he furnishes further material in support of the basis of the apprehension.

11. On a consideration of the relevant material on record and the pleas taken before this Forum, it has to be recognized that Respondent is a duly elected representative of his constituents. Accordingly, he has a public duty to his electorate to put forward their legitimate concerns and grievances. As long as the Respondent does not attempt to obstruct or illegally impede any lawful process, he is taking up the cause of constituents before the

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appropriate authorities or a personal communication seeking consideration of a proposal for regularization, the Respondent cannot be faulted for violating the norms of integrity and conduct. It is also a part of his public duty and a legitimate expectation of his constituents that their point of view would be duly represented in a lawful manner before the appropriate authorities.

12. The Respondent has filed a reply taking the above pleas and also averring that as soon as he realized that the demolition programme was pursuant to the directions given and for which even police aid had been sought, he came away from the police station. The above conduct does not fall foul of the norms of integrity and conduct. He had not crossed the 'Lakshman Rekha', which is evident from the action taken report that demolition, in fact, was carried out in Plot No. 113. The Respondent submits that the position is that 40-50 families are in possession of these tenements since 1976. They have ration cards, names in the electoral rolls, these tenements have been converted from kacha to pucca constructions. DDA had been collecting damages, and it would not be just to dislodge these families and the proposal submitted to the Urban Development Department for exploring the formulation of policy to regularize these, may be considered. The Bathroom plots were not located on any path or roadway.
13. In view of the foregoing discussion, allegations sought to be made against the Respondent for having obstructed or stalled the demolitions are held not to be established. Accordingly, the inquiry is liable to be closed and is so ordered.

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However, considering the fact that the Complainant had suffered demolition / eviction from his habitat in one of the Bathroom plots on 16-12-2004, which was also one of the Bathroom plots in the same colony, now in case a decision is taken to regularize the existing Bathroom plots with the structures thereon, then the case of the Complainant deserves to be sympathetically considered for accommodation for a Bathroom plot subject to availability. In case it is not possible to accommodate at the said location then his case may be considered for allotment at another site under re-location scheme, if any. The above is, of course, subject to the Complainant otherwise meeting the eligibility criteria for regularization of the Bathroom plots.

14. The case is disposed of holding the allegations not to have been established against the Respondent, but with the recommendation to the Hon'ble Lt. Governor for sympathetic consideration of the case of the Complainant on the lines indicated above.
15. A copy of this Order, besides the Complainant and Respondent, be also sent to the Delhi Urban Shelter Improvement Board (DUSIB) for their information and record.


(JUSTICE MANMOHAN SARIN)
LOKAYUKTA

Date: 21st January 2013

Hemant