

**BEFORE THE HON'BLE LOKAYUKTA
JUSTICE MANMOHAN SARIN
COMPLAINT NO.C-1219/LOK/2012**

In the matter of:-

Shri Ashok Kumar, S/o. Shri P.N. Munshi,
R/o. Pocket-D-17, House No.6,
First Floor, Sector-3, Rohini,
Delhi 110085.

..... Complainant

Versus

Smt. Sheila Dikshit,
Chief Minister, Government of NCT of Delhi.

..... Respondent

ORDER

1. The Complainant in this complaint alleges that the Respondent Chief Minister by virtue of the portfolios she holds, namely, the Directorate of Information & Publicity (in short 'DIP'), the General Administration Department (GAD), Department of Art & Culture (ACL) and the Department of Finance of the Government of NCT of Delhi, is directly responsible for the decisions taken in these Departments and for change of established norms or exceptions.
2. The Complainant alleges that the Respondent has used her position to by-pass regular established instructions for publication and release of outdoor publicity for various departments and organizations under the control of the Government of NCT of Delhi. Complainant, on the basis of information received through RTI queries as well as the supporting documents filed with the Complaint, alleges that undue, special, exceptional favours were granted to M/s. Ved Pohoja &

Associates who were not even empanelled with the DIP or with the DAVP.

3. The Complainant alleges direct responsibility of the Respondent Chief Minister being borne out and supported by the Circulars issued by her Office on 15-05-2007, Vol. I, Page-14 of the documents filed, and 11-04-2008, Vol. I, Page-015 of the documents filed, mandating prior approval of the Chief Minister to be taken by all Departments of the Government of Delhi for advertisements in print, outdoor, TV, Radio etc. Additionally, the Complainant alleges that M/s. VPA were granted a number of contracts under the Bhagidari scheme which is controlled by Bhagidari Cell, which functions as a part of Chief Minister's Office. These decisions were centralized with the Chief Minister, who is a 'public functionary' within the meaning of Sec. 2 (m) of the Delhi Lokayukta & Upalokayukta Act, 1995. Inquiry by this Forum was solicited.
4. It is alleged that M/s. VPA were granted contracts as a Consultant year after year since 2003 by a tendering process that had been manipulated with only one other agency participating besides M/s. VPA. The other agency as learnt from responses to RTI queries, Vol. I Page-83 of the documents filed, being M/s. Amar Holistic Society for Disabled. As the name suggests, the said Society would hardly have any expertise or qualifications for media consultancy works. It is alleged to have been a sham tendering process to ensure that M/s. VPA remained the sole successful bidder. Moreover, the grant of visual publicity works was normally done by DIP in terms of Notification dated 13-09-1978 of the Lt. Governor, issuing the Delhi Administration Advertisement Rules. The DIP, as a nodal agency,

empanelled advertising agencies for the purpose of booking of advertisement and used to invite offers for outdoor publicity and exhibition related works. VPA was neither empanelled with DAVP or DIP, nor did it participate in any open tender for outdoor publicity. The Complainant has invited attention to documents at Vol. I, Page-7 (notification), 12 and 13 to show that the award of works to VPA and the bogus concerns put up by it was completely outside the above process, ignoring empanelled agencies.

5. The advertisements were issued without retaining the 15 % Commission which was required to be retained by DIP from the amount paid to advertisement agencies, thereby causing loss to the exchequer. The alleged loss on this account in 2006-07 and 2007-08 was Rs. 73.28 Lakh. VPA was one of the beneficiaries. The Complainant further alleges exercise of undue discretion by the Chief Minister in favour of VPA who was granted creative work for bus queue shelters of Delhi Transport Corporation on percentage commission as opposed to the DIP norm of fixed fee. Reference has been invited to documents at Vol. II, Page-102, 115, 126, 127, 128, 135 & 140. It is further alleged that undue favour was granted to VPA for grant of contracts from institutions like Sahitya Kala Parishad, an organization under the control of the Government of Delhi. It is alleged that VPA submitted offers through bogus firms such as M/s. Format which have the same address as VPA. Reference is made to Vol.III, Page-112 and Page-63. M/s. Dimensions had the same phone number as that of VPA. Its authorized signatory, Mr. Mahesh Sharma was alleged to be associated with VPA. Reference is made to Vol. III

Page-59 and 63. Similarly M/s. Trade Advertising has the same PAN Number as that of M/s. Print Traders.

6. From the foregoing allegations, prima facie, a case for inquiry into the allegations of undue favours being granted to M/s. VPA is made out. However, these need to be verified by further inquiry. As per a table prepared by the Amicus Curiae, from the documents filed, the total value of contracts awarded to M/s. VPA come to Rs. 6,34,44,269-00.
7. Before parting, it may be observed that this complaint has a chequered history in as much as the complaint was originally filed by the Complainant in Form-III with imperfect verification. These defects were pointed out and the Complainant was asked to resubmit the complaint, following which it was resubmitted on 14-02-2012. Since the deficiencies remained, the Complainant was again advised to remove the defects and re-submit the complaint. The Complainant thereupon presented the complaint on 12-03-2012 in Form-I. Complainant was heard through his Counsel on 24-04-2012. He was asked to demonstrate specifically the role of the Respondent Chief Minister in the undue favours to VPA. The Complainant sought time to produce responses of RTI queries that he had moved under the RTI Act in which he was compelled to approach the CIC and that he would like to file an amended complaint. In May 2012, the Complainant expressed his disgust with the Counsel that he had appointed and appealed to this Forum that he could not find a single suitable attorney to represent him and his experience with the last Counsel was horrifying. Since his financial status did not permit him to seek legal assistance, he expressed his unwillingness on account of financial constraints to continue with the complaint and sought its

withdrawal or to be continued *suo motu* with his pitching in as a witness or submitting his documents as collected.

8. In these circumstances, Mr. Anish Dayal, Advocate, was appointed as Amicus Curiae; vide order dated 30-05-2012. The Amicus Curiae has done considerable research and analysis of the voluminous documents filed to present in an orderly manner the allegations as noted above. The Amicus Curiae also submitted his brief notes and analysis after going over the entire record and set of documents which had been produced by the Complainant originally along with subsequent responses of RTI. The brief notes submitted by the Amicus Curiae, dated – 8th August, 12th September, 19th October, 8th November and 21st December, 2012 have been perused.
9. Upon consideration of the complaint, documents filed and the brief notes submitted by the Amicus Curiae, and as noted in the foregoing discussion, a prima facie case for inquiry into the allegations made under Sec. 2(1)(b) of the Act is made out.

Let notice issue to the Respondent to show cause why an inquiry in respect of allegations under Sec. 2 (b)(i), (ii), (iii) & (iv) r/w Sec.7 of the Delhi Lokayukta & Upalokayukta Act, 1995, be not held, returnable on **12-03-2013 at 2.30 PM.**

To enable Respondent^{to} file its response, copy of the complaint with complete set of documents filed by the Complainant in support of the allegations from time to time and the brief notes of the Amicus Curiae, along with this Order be sent to the Respondent.


(JUSTICE MANMOHAN SARIN)
LOKAYUKTA

Date: 12th February, 2013

Hemant