

**BEFORE THE HON'BLE LOKAYUKTA  
JUSTICE MANMOHAN SARIN**

**COMPLAINT NO.C-151/LOK/2009**

**IN THE MATTER OF:-**

**Shri Ranjeet Choudhary** ..... Complainant  
Versus  
**Shri Naseeb Singh, MLA.** ..... Respondent

**AND**

**COMPLAINT NO.C-315/LOK/2010**

**Shri Ranjeet Choudhary** ..... Complainant  
Versus  
**Shri Naseeb Singh, MLA.** ..... Respondent

**ORDER**

1. By this common Order, the above complaints are being decided, together with applications moved by the Complainant Shri Ranjit Choudhary and the Respondent for taking on record the Settlement Deed executed between them, and for disposing of the complaints in terms thereof.

The Complainant seeks withdrawal of these complaints. The issue of not permitting withdrawal of the complaints in terms of the settlement, as being opposed to public interest and policy is also being considered.

2. Here are the essential facts for disposal of the applications for withdrawal of the complaints and their disposal in terms of the Settlement Deed:-

**C-151/LOK/2009**

- 3(i). The Complainant alleges that vide Notification dated 13-11-1959, 107 Bighas and 19 Biswas of land in Village Ghazipur was notified

for acquisition. The Declaration under Sec.6 and Award No.94/86-87 was made on 17-09-1986. The father of the Respondent Shri Naseeb Singh, MLA, i.e. Shri Bhagat Singh and his brother Shri Virender Singh, Padam Singh and others owned 11 Bighas and 8 Biswas out of the said land. Shri Bhagat Singh and other owners challenged the acquisition by Writ Petition No. 430/1983. Status quo order was passed on 08-03-1983. Writ was finally allowed by the Court on 01-08-2002.

- (ii) It is alleged in the complaint that the Writ petitioners did not implead DDA as a party in the petition and by concealing the factum of the passing of the Award misled the Court in allowing the Writ Petition. DDA has filed an application for review of the order allowing the Writ Petition and for impleadment. Status quo order with regard to the nature, title and possession of the subject property has been passed in the review petition.

Land fell in the institutional area and part thereof had been allotted to various Institutions including Sahitya Academy who deposited Rs. 1,16,000,00/- with CPWD and were paying rent of Rs. 2.5 Lacs to NDMC for the land.

- (iii) It is alleged that earlier despite the orders of status quo, the Writ petitioners flouted the orders by entering into an assignment deed dated 8-7-2002 and sold part of land to East Delhi Health & Education Society, managing St. Peters Convent School, for a consideration of Rs. 92,000/-. The Writ Petition was allowed by the High Court on 01-8-2002, i.e. after sale of the land. The main vendor was Shri Bhagat Singh, father of Shri Naseeb Singh, while Shri Naseeb Singh, was President of the East Delhi Health & Education

Society during the execution of the assignment deed. Respondent tendered his resignation from the Society and his brother Sunil Kumar was appointed President in his place.

- (iv) The allegation is that the land was sold amongst the family members in collusion with each other through the device of assignment deed and to cause financial gain to Respondent and family and financial loss to the Government and other private parties and public exchequer. A Contempt Petition had been preferred, where notices were issued to the contemners.
- (v) The second limb of the allegation in the complaint is with regard to the breaking of seal and carrying out unauthorized construction. After the Monitoring Committee had directed the sealing of St. Peters Convent School, the Respondent exercising his influence to get the unauthorized construction done had got a wall constructed on the land, when there was no boundary wall. With the enclosure by wall, the nature and character of the land was changed. The Respondent was, at that time, the Parliamentary Secretary to the Chief Minister, even though in 2008, he became a Member of the DDA. It is alleged that as a result of the influence exercised by the Respondent, Sahitya Academy who had been allotted land and had made considerable amount of payment was suffering.
- (vi) Pleadings were completed with the Respondent refuting the allegations. The Complainant had led evidence and examined himself as well as various official witnesses to prove the correspondence produced on record.

- 4(i) The Complainant had examined himself, his brother Parvesh Choudhary and official witnesses CW-2 to CW-6 & CW-8 in support the allegations made in the complaint.
- (ii) The Respondent examined himself as also the Contractor who had carried out the construction work, based on the orders placed by DDA, which was being described as unauthorized construction. Respondent's real brother Sunil Kumar was also examined. Evidence was concluded in the matter and parties also filed their written submissions, which shall be adverted to in brief while dealing with the applications for withdrawal of the complaints and its disposal in terms of the settlement deed.

**C-315/LOK/2010**

- 5(i) Complainant, Ranjit Choudhary, filed this complaint dated 9-3-2010 against the Respondent Shri Naseeb Singh, MLA. The substance of the allegations is that the Respondent has carried out unauthorized construction and encroachment on public land in Kh. No. 386 situated at Village Ghazipur. Respondent being 'public functionary' is accused of violation of the norms of integrity, misuse and abuse of position for gain. It is alleged that he has misused his position as an MLA and Member of the DDA.
- (ii) The land in question in Khasra No. 386, Village Ghazipur stands acquired by an Award with owners having received compensation there-for, challenged the acquisition by an earlier Writ Petition No. 1243/79 which had failed. In another Writ Petition filed by the Residents Welfare Association of the Village Ghazipur, which the Complainant alleges is a defunct organization and controlled by the

Respondent's father, a restraint order against the demolition of structures in Village Ghazipur except for new construction or ongoing construction had been passed. Based on the official notings of DDA attached with the complaint, prima facie, encroachment on this Khasra by the Respondent and unauthorized construction being carried out in violation of restraint order and the same being put for office and commercial use is found, which calls for an inquiry.

- (iii) Cognizance was taken. Notices were issued, pleadings were completed. The evidence on behalf of the Complainant was commenced. Official witnesses, CW-1 to CW-3 were examined. Complainant's brother Parvesh Choudhary was also examined. The matter was being directed to be listed for Respondent's evidence on 24-08-2011. It is at this stage, both the Counsel submitted that attempts were being made to resolve the matter amicably and sought the good offices of the Lokayukta. It was urged that the complaint was having many ramifications. It was disturbing the peace and harmony not only of the families of the Complainant and the Respondent but also that of large number of followers of the Complainant and the Respondent. During the period 11-08-2011, till January 2012, the parties reported to the Forum the efforts being made to reach settlement with regard to various disputes between them.
6. The matter was then adjourned to 13-02-2012. On the said date, Settlement Deed, Ex.CW-3/2 was filed. The Settlement Deed is duly signed by the Complainant Ranjit Choudhary and Shri Naseeb Singh, MLA, Respondent and Shri Sunil Kumar Singh, brother of Shri Naseeb Singh. Sunil Kumar Singh is a party to the settlement, since

in terms of the Settlement Deed, he is required to withdraw the criminal cases and complaints filed by him and pending before the Metropolitan Magistrate against the Complainant.

In terms of the Settlement Deed, the Complainant seeks to withdraw the cases before the Lokayukta namely C-151/2009 & C-315/2010. The Respondent and his family have agreed not to act against the interest of the Complainant and his family. Sunil Kumar Singh has agreed to move application for withdrawal of FIR No. 108/05 under Sec. 323/34/341/427/506/54 IPC, P.S. Kalyanpuri, pending before the Metropolitan Magistrate. Parties have agreed not to do any act which would disturb the family harmony and the settlement is sought to be in the larger interest of the families.

7. Curiously, upon the settlement deed being filed, an application was moved on behalf of Shri Bikram Singh and Shri Surender Singh, who, no doubt, are the elder members of the family, for intervention in the matter. The interventionists sought to urge that the settlement should not be approved. The said application was dismissed as admittedly the two had no locus being neither the Complainant nor the Respondent, to urge that the withdrawal of the Complaint should not be permitted. Moreover, it was also impressed upon them that when the younger generation represented by the Complainant and the Respondent was willing to put an end to acrimony and disharmony and end the ongoing litigation, then the elders should support such an endeavour. The said application was dismissed vide orders dated 30-03-2012. Subsequently, the advocates namely, Mr. Rahul Sharma and Ms. Jyoti Sharma who had been appearing for the Complainant, and had also entered appearance for the above interventionists were

discharged on behalf of the Complainant and the Complainant appointed Shri J.P. Verma, Advocate to represent him.

8. The first thing, therefore, to be considered is whether the proposed settlement should not be allowed on the ground that it is against public interest or opposed to public policy. There is no gainsaying that in a given case even if the Complainant ceases to appear or does not prosecute the complaint on the basis of facts which constitute allegations against a 'public functionary' under the Act and or brought to the notice of the Forum, the inquiry can be proceeded with and findings reached irrespective of the Complainant not prosecuting the complaint, especially, if the allegations and nature of contraventions are serious.
9. Counsel for the Complainant Mr. J.P. Verma, and Dr. Sarabjeet Sharma, Counsel for the Respondent have been heard in support of the application. Mr. Verma, has urged that the origin of the complaints lay in disputes between the families of Complainant and the Respondent. The second generation i.e. the Complainant and Respondent had taken a decision to recreate harmony amongst the family members and thus moved this application bonafide for settlement. He urged that the settlement does not violate any provisions of the Lokayukta Act and was not opposed to public policy.
10. Dr. Sharma submitted that the acrimonious relations and personal disputes had resulted in the Complainant filing the above two complaints while the Respondent's brother Sunil Kumar had, as a counter measure, filed an FIR and criminal Complaint against the Complainant and his brother, pending before the Metropolitan

Magistrate. He submitted that on the inter-se disputes between the families and their followers ending, it would bring harmony without in any manner militating against public policy or operation of law.

11. It is in this context that he made submissions pointing out that even otherwise on an appreciation of the evidence led so far, the allegations against the Respondent cannot be said to have been established. He urged that there was no violation of the stay order obtained in Writ Petition which was a status quo order qua dispossession upon acquisition only. Secondly, the allegation of carrying out unauthorized construction and breaking of seal, ordered by the Monitoring Committee, had not been proved on record. On the other hand, it has been clearly demonstrated that the construction was being carried out by a Contractor, who had been awarded the contract by DDA. Hence the Respondent could not be held responsible for the said construction of the boundary wall. It had also been shown that the Respondent was not even a member of DDA at that time. The Respondent became a Member of DDA in the year 2008 while it was wrongly sought to be claimed that he had exercised his influence in April 2007 for carrying out construction of boundary wall.

I find considerable merit in the submissions of the Respondent that the above allegations against the Respondent, on appreciation of the evidence led, cannot be said to have been established or proved on record.

12. The allegation in Complaint No. 315/Lok/2010 of encroachment by Respondent upon land measuring 6 bighas 9 biswas in Khasra No. 386, Village Ghazipur, and unauthorized construction thereon despite the order of the Hon'ble High Court in WP(C) No. 13464/2005, is



not substantiated by the evidence of CW-2. It is the admitted case, that possession of their land in Khasra No. 386 remained with the Respondent and his family despite the notices U/s 4 & 6 under the Land Acquisition Act. The letter of the Land Acquisition Collector to L&B Department dated 16/03/1994, letter of ADM (East) dated 23/01/2008 and a letter by Tehsildar (LA), District (East) dated 29/09/2009 placed on record by the Respondent, further confirm that the payment of compensation with regard to their land in Khasra No. 386 Village Gazipur, Delhi, is lying in RD account of Land Acquisition Collector and has not been withdrawn by the land owners.

13. Since the possession remained with the land owners and they also did not receive compensation for the land, it remained private land in terms of the Order of Hon'ble Lt. Governor No. F. No. F.1-33/UC/UD/Policy/2007/20670-20686, dated 12/12/2007. This order defines "Government and Public land" as the land in respect of which award has been passed and the land owners received the compensation irrespective of current physical possession. On the other hand "private land" is defined as the land in respect of which award has been passed but the land owners had not taken the compensation and retained the physical possession also. The evidence led by the Complainant is unable to prove that the physical possession of the land was taken by the DDA at any point of time and the Respondent thereafter encroached and came into possession of this land. So far as the construction of rooms on the ground floor and first floor is concerned statement of CW-2 S.N. Tripathi, Kanugo shows that the father of the respondent had owned up the

construction. It was also demolished by him before 19/04/2010 when the officials of the DDA visited the sites for demolition action. So allegation of encroachment and raising unauthorized construction are not established against Respondent.

14. Further in respect of allegation of misuse of land in Khasra No. 386 for Commercial purpose by running a Kerosene Oil Depot in the name and style of M/s Shri Ram Oil Traders, the Respondent claimed that Kerosene Oil Depot was allotted to him in the year 1990, when he was an unemployed youth and not an MLA. Secondly, running of Oil Depot on this land is not in violation of any law because Khasra No. 386 abuts on main road on which commercial activities are permitted. The Complainant also admitted this fact.
15. As to the allegation in complaint No. 151/Lok/2009 the respondent has submitted that while disposing of the Writ Petition No. 430/1983 on 01/08/2002, the Hon'ble High Court had observed that the stay in that case was only to maintain status quo as regards "dispossession" and was against the state and thus was no bar to execution of Assignment Deed by petitioners in favour of EDHE Society, who by executing the Assignment Deed in July, 2002 had transferred their interests in the land in question to the Society, which stepped in their shoes taking all the rights and liabilities attached to that case. Admittedly Respondent was also not a party before the Hon'ble High Court in CWP No. 430/1983 in which the acquisition proceedings were under challenge. Besides the court is seized of legal proceedings initiated for contempt and law will take its own course.
16. The allegation of raising the unauthorized construction despite sealing of St. Peters Convent School in the year 2006 by the

Monitoring Committee is falsified by the statement of RW-2, Subhash Verma and RW-3, Harinder Singh who stated that the construction of raising of boundary wall was carried out by the Engineering Department of DDA, to protect the land which was freed from encroachment. As far as sealing of St. Peters Convent School is concerned the premises still continues to be sealed. It is also noted that when this construction of boundary wall was carried out, the respondent was not even the President of the EDHE Society which manages the affairs of the St. Peters Convent School. The Complainant also admitted this. Even otherwise the Respondent cannot be held vicariously liable for the act of the Society, when he was not managing or having no direct involvement in the affairs of the Society. Thus, there is no specific act assigned to respondent and established on record, which would fall in the definition of 'allegation' as defined U/s 2 (b) of the Act.

17. The Complainant had also urged that the Respondent being a Member of DDA was exerting his influence in the decision making process at the top level to get this land excluded from acquisition proceedings and thus, misusing his position and acting against the norms of integrity and conduct expected from "Public Functionary".
18. The reference is made to a representation at 16/02/2009 made by the family members of the Respondent to the Hon'ble Lt. Governor on which it was suggested that the minimum area required by the school as per the DDA norms could be excluded from the acquisition proceedings and the remaining area can be handed over to the DDA. No doubt the Respondent being a 'Public Functionary' is expected to abide by norms of integrity and conduct expected from a public

person of his stature. But at the same time, if the family members of the Respondent make any representation in a legal manner for regularization or de-notification of their land from acquisition proceedings, it would not be a misuse or abuse of his position by the Respondent. Despite being a MLA, he has a right under the law to protect his interest or that of family in a property by legal means. Moreover, the Complainant failed to show what benefit respondent or his family drew by such representation to the Lt. Governor, which they could not have drawn but for the position and status of the respondent.

19. As discussed, based on the evidence that has come on record the allegations against the Respondent are not established. There is no flagrant violation of law directly or attributed personally to the Respondent. As noted the unauthorized constructions of rooms on the first floor, which is the subject matter of complaint No. C-315/Lok/2010, alleged to be carried out after the status quo order and falling in the category of new constructions is owned up by Respondent's father, who of his own accord demolished it before demolition action by DDA.
20. The breach or violation in any case has ceased to exist. Similarly, regarding the allegations of construction of a wall which is subject matter of complaint No.C-151/Lok/2009, it has come on record that the said wall was raised by the contractor who was awarded a contract for erection of wall by DDA, hence, it cannot be said to be a violation by Respondent personally, even though the building of the wall may also result in enclosing the land where the school is being run while protecting DDA property.

21. Besides, it seems that the complaints were a manifestation of the acrimony and sibling rivalry in the families. Complainant and Respondent, despite protests from the elders in the family, entered into an amicable settlement putting an end to all the disputes between them and the same cannot be said to be opposed to public policy.
22. In view of the foregoing discussion, the applications for withdrawal of the complaints are allowed in terms of Settlement Deed. The factum of disposal of these complaints and allowing of the withdrawal applications shall not constitute a bar or come in the way of any of the statutory authorities such as DDA, MCD etc. in performing or discharging their statutory obligations or responsibilities cast on them in respect of the subject matter of the complaints.
23. The observations and finding in this order are for purpose of the enquiry U/s 7 read with 2(i)b of the Delhi Lokayukta and Upalokayukta Act, 1995. Nothing contained in this Order shall come in the way of the concerned statutory authorities in re-visiting the allegations if fresh, further or supplementary evidence in respect of the allegations surfaces, giving a cause of action for the same.

  
(JUSTICE MANMOHAN SARIN)  
LOKAYUKTA

Date: 12<sup>th</sup> February, 2013  
Hemant