

**BEFORE THE HON'BLE LOKAYUKTA  
Justice Manmohan Sarin**

**Complaint No. C-1957/Lok/2013**

**In the matter of enquiry under Section 7 read with Section 2 (b) of  
the Delhi Lokayukta and Upalokayukta Act, 1995.**

**AND**

**In the matter of cognizance on receipt of information regarding  
with-holding and non grant of old age/handicapped pension.**

**Usha Sharma**

**Complainant/Informant**

**Vs.**

**Ms. Parmila Tokas, Municipal Councillor**

**Respondent No. 1.**

**Dy. Commissioner, South Delhi Municipal Corporation**

**Respondent No. 2**

Present :-

1. Ms. Usha Sharma, Complainant in Person
2. Mr. D.K. Mishra, Counsel for Complainant
3. Mr. Mahender Verma, authorized representative of Parmila Tokas, Councillor
4. Sh. Tikam Singh for SDMC

Ms. Usha Sharma, Complainant says that there is a change of residence but she continues to reside in the same ward. Hence, there was no tenable cause for deletion of her name from the pensioner's list.

MS

Mr. Mahender Verma, authorized representative of Respondent Parmila Tokas, Councillor, is present. He says there is some information that Ms. Usha Sharma has taken up employment and is working in and around Dwarka Courts. Let him file particulars thereof. Ms. Usha Sharma is directed to file by the next date, an affidavit clearly stating if she has taken up any employment, which would be a relevant factor for considering her eligibility for pension.

Municipal Corporation had earlier filed a reply dated 26.06 2013, which is again tendered today together with notings and annexures. In this reply, it is claimed that after every general election, the cases of pensioners drawing old age pension/stipend should be at the discretion of the Municipal Councillor i.e whether he/she intends to recommend the names of existing/old pensioners, new pensioners. The department has averred that it has no power to stop or sanction pension or grant of pension without, recommendation of the Councillor. Copy of the circular dated 04.12.2012, has been filed.

I, find on going through the terms of the Circular that the stand now sought to be taken by the Corporation is contrary to the stated position of the Municipal Corporation before this forum earlier. In the case of Narinder Bindal, the Corporation had stated that if a person was found eligible for old age pension he/she shall continue to draw so during the term and thereafter the pension can be discontinued on account of death, migration, becoming ineligible etc. However, as per the Circular a pensioner drawing old age pension would draw the same during the term as recommended by the Councillor but after the general election it would be for the elected Councillor to recommend him/her or not to recommend. This is in my view, is contrary to the stated position earlier and also Clause (v) & (viii) of the Circular.

The Corporation's own position before the Lokayukta in the case cited earlier was that new applications or fresh applications for grant of pension after an election can only be considered if there was enhancement in the quota or there were drop outs by migration or some persons become ineligible.

It would be extremely unfair and would go against the very objective of the scheme if a person who does not have any means of survival and drawing pension ceases to receive the same only because the Councillor has changed and he/she is again left at the whims of the new elected Councillor. Coming to the current political scenario the name of the old pensioners can be terminated/deleted from the list of pensioners by the new Councillor and these owing allegiance to him being added.

The accepted position hereto before was that it was only in the case of increase in the quota or vacancies arising on account of death, migration etc. which the newly elected Councillor could fill. Corporation stand now sought to be taken is a complete volte face from the stated position.

Not only this, it is with great anguish I record that Corporation has shown scant respect to the recommendations made by this forum, approved and accepted by the Competent Authority, namely Lt. Governor regarding the mode of payment of pension.

This forum on a conclusion of inquiry in the case of Narinder Bindal had made recommendations and suggestions for improvement in procedures which have the potential for mal-administration and corruption. It was recommended that with a view to end mal-practice in the grant and distribution of pension, while inviting applications in case of vacancies, wide publicity should be given. Secondly, pension to the eligible **pensioners should be paid through the medium of ECS without going through the process of payment by cheque through Sanitary Inspector.** The cited case was one where it was found that payment of pension was being released on pensioners paying subscription for magazine patronized by the Councillor, entailing payment of Rs. 1100/- per annum.

The aforesaid recommendations and suggestions were accepted by the Hon'ble Lt. Governor vide an order dated 10.10.2011 and the following direction was given :-

MS

“The Commissioner is directed to expedite formulation of code of conduct for Municipal Councillor in public domain. He is also directed to introduce the system of disbursement of pension payments through Electronic Clearing System (ECS) to prevent malpractices, if any. The MCD, for better information and dissemination of the schemes, may introduce the system of public notice/advertisement for inviting pension applications and the applications, recommended by Councillors or otherwise, should be carefully scrutinized so as to ensure that only needy persons get the benefits”.

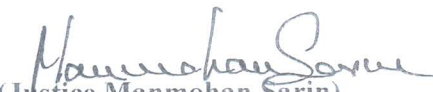
The present Circular dated 04.12.2012 is contrary to the aforesaid direction. The Circular inter alia read as :-

**“Payment should not be distributed through ECS system it should be distributed through the prevailing system i.e payment by cheque through the Sanitary Inspector”**

The above is a complete negation of administrative hierarchy and flagrant disregard of the directions of the Competent Authority and the Administrator i.e the Hon’ble Lt. Governor, which should not be countenanced.

In these circumstances, let show cause notice issue to Director (CSD) to be personally present on the next date, to explain the circumstances in which the orders of the Competent Authority are sought to be ignored and Circular specifically contrary thereto, is issued, returnable on **02.08.2013 at 2.30 P.M.**

Renotify the matter on **02.08.2013 at 2.30 P.M.**

  
(Justice Manmohan Sarin)  
Lokayukta

**Dated : 15.07.2013**

r.a.