

BEFORE THE HON'BLE LOKAYUKTA

JUSTICE MANMOHAN SARIN

COMPLAINT NO. C-1754/LOK/2012

In Re:-

Sh. Rajesh Garg ..... Complainant  
Vs.  
Sh. Raj Kumar Chauhan  
Minister PWD AND  
Sh. Vijender Gupta,  
Municipal Councillor ..... Respondents

Present:- Sh. Rajesh Garg Complainant in person  
Ms. Kanchan Bansal Advocate for Mr. P.K.  
Aggarwal, Advocate for DDA  
Sh. V.K. Tandon, Advocate for R-1  
Ms. Mansi for NDMC  
Sh. R.K. Sethi, AE. (B) CLZ  
Sh. Sada Shiv, AD (IL), DDA

Copy of the interim status quo order passed by Civil Court has been tendered before this forum alongwith the photocopies of the notings running from page 107/N to 116/N.

Mr. Rajesh Garg complainant, who happens to be present today submits that he has also sought impleadment in the civil proceedings. He has been permitted to intervene in the civil litigation.

My attention has been drawn to the note of T. Shrinidhi, Principal Commissioner (LD,H&CWG) at page 116/N which reads as under:-

"Lokayukta, if approved, can be informed that the Civil Court has granted Interim stay and in all probability he is estoppabled from continuing with his hearings."

It does not fall within the domain of the Principal Commissioner or for that matter any of the officers of the DDA to advise the quasi judicial statutory authority regarding its jurisdiction. In case the DDA is so advised they are free to raise objection regarding the continuance of proceedings.

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It may be recalled that this is a case where complainant came to this forum alleging that on account of the patronage and protection of two 'public functionaries' public land admeasuring 5500 sq. meters approximately has been encroached upon and was being enjoyed by the media house for the last over two decades without any action being taken by the statutory authorities, namely DDA and PWD.

It was after recording of the statement of the complainant on oath and consideration of the evidence tendered, interalia responses to the RTI queries, that the notice was issued by this forum to the 'public functionaries' and PWD and DDA during the enquiry proceedings.

Reply/Status Report was filed by PWD stating that action was initiated in 2010. Subsequently on 12.2.2013 it was claimed that the encroachment made over their land/road and the gates installed by the Media House had been removed and the land admeasuring about 1500 sq. meters having been reclaimed, leaving for DDA to do the rest.

It was during the proceedings, that Lokayukta enquired from the DDA as to their plans for getting the encroachment removed to fulfil their statutory obligations. Lokayukta is well within line of his public duty, while conducting enquiry against 'public functionaries' especially where the allegation is that on account of the influence of the 'public functionaries', the statutory authorities were not discharging their functions, to enquire as to what action was contemplated by the statutory authorities to fulfil their statutory obligations. Apart from the jurisdiction to enquire into complaints against 'public functionaries' Lokayukta may also under section 16 of the Act, make suggestions where he notices any mal practices and potential for corruption.

I am constrained to notice that in this case one of the factors to be enquired into is the inaction on the part of the statutory authority to reclaim its land and remove the encroachment for nearly two

decades. Whether such inaction emanated allegedly due to the influence exercised by the 'public functionaries' or otherwise, would be the subject matter of enquiry. In this connection the Commissioner (Institutional Land), based on its records, is directed to file a detailed affidavit informing this forum as to the date on which it got the knowledge of encroachment by the media house and the steps taken thereafter by it for removal of the encroachment. Let this affidavit be filed within two weeks.

Action by the DDA got deferred and delayed on the plea that the instructions of Hon'ble Lt. Governor dated 15/01/2013 issued regarding unauthorised colonies slated for regularization were also applicable in the instant case. The action was delayed further on account of taking approval of the Hon'ble Lt. Governor despite the order of this forum dated 3.5.2013, clarifying the position.

Be that as it may, said difficulty is stated to be not existing now as the Hon'ble Lt. Governor has cleared the file for action.

It is not understandable while on the one hand it is the case of the DDA itself that the media house has forged the lease deed and has encroached upon the public land as is evident from their communication/complaint to the SHO yet on the other hand proposed demolition action was delayed on the plea of seeking approval of the Hon'ble Lt. Governor. Now a plea of Lokayukta being estopped from proceeding in the enquiry is mooted.

Statutory authority namely DDA would do well to focus and concentrate its energies on discharging its statutory duties and by promptly and effectively defending the civil litigation wherein stay has been obtained, without written statement being filed by the DDA. Let the injunction be not continued in default.

The enquiry proceedings before this forum are within the four corners of Delhi Lokayukta and Uplokayuka Act, 1995 and further proceedings shall be

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taken on going through the records and filing of the affidavit by the DDA as directed.

At this stage Mr. Rajesh Garg, complainant states that there is no progress in the complaint lodged by Mr. P.S.Joshi, Dy. Director (Industrial) on 4.3.2013 with Police Station Ashok Vihar, Delhi.

Mr. Sada Shiv, AD (IL), DDA assures that he will look into it.

Relist the matter for 14<sup>th</sup> August, 2013 at 2.30 PM.

  
(Justice Manmohan Sarin)  
Lokayukta, Delhi

17<sup>th</sup> July, 2013  
Pks