

BEFORE THE LOKAYUKTA, DELHI
JUSTICE MANMOHAN SARIN
COMPLAINT NO. C-1706/LOK/2012

In Re:-

Sh. Sat Prakash Rana, MLA ... Complainant/Informant
Vs.
Sh. Bhupinder Gupta, Municipal Councillor ... Respondent

Present: Sh. Chetan Lokur, Advocate Amicus Curiae

Sh. R.N. Dahiya, AE, SDMC

Sh. Ajay Chaudhary, JE (B), SDMC

Sh. Devi Dayal Sharma

Sh. N.L. Thapa

Sh. R.K. Behl

Sh. Y. Prasad

It may be recapitulated that a communication purported to have been sent by Sh. Sat Parkash Rana, MLA was received in this office alleging large scale unauthorised constructions in complicity with Respondent Councillor. The complainant/informant on being summoned, stated on oath, having not signed or sent the said communication. He further claimed that his Letter Heads and Stamp went missing for which he lodged a police report.

Despite the informant/complainant having denied making of the complaint, the information contained in the communication was treated as 'other information' since the information was found to be credible, and the proceedings were taken up.

As the information contained alleged complicity and connivance of Sh. Bhupender Gupta, Municipal Councillor Ward No. 42, status reports were called for, which revealed rampant unauthorised constructions. It was also brought on record that some of these constuctions were in unauthorised regularized colonies and were entitled for regularization. To facilitate residents of these colonies in getting their premises regularized and compoundable construction regularized, directions were issued by this forum from time to time. During these proceedings various impediments and difficulties in the

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regularization process in the unauthorised regularized colonies were noticed and suggestions to overcome them given.

This forum in the order passed on 3.7.2013, had taken note of the stand of Municipal Corporation in the application of Municipal Bye laws for regularization of construction in unauthorised regularized colonies. It was submitted by Ld. Standing Counsel for MCD that the requirement with regard to the documents of title/ownership with chain of ownership would of necessity have to be met. In the order passed by this forum on 3.7.2013, it noticed the dichotomy namely registration of sale deeds in unauthorised colonies, since regularized, had not been permissible. Transactions were mostly done on the basis of the agreement to purchase, accompanied with Power of Attorney, Will, GPA etc. with proof of water and electricity connections. Suggestion under section 16 of the Delhi Lokayukta and Uplokayukta Act 1995 were mooted for consideration to the effect that agreement to sell accompanied with GPA, Power of Attorney, Will etc. and continued evidence of occupation supported by water and electricity bill, ought to be accepted as documents of ownership for submission of the application for the purpose of getting the structures regularized, otherwise in unauthorised regularized colonies, the boon of unauthorised constructions would be perpetuated and continued. Certain relaxations were recommended as noted in the said order. However to prevent misuse by sepeculative transfers, minimum period of continued occupation could be considered and prescribed. These tentative suggestions were proposed under section 16 of the Delhi Lokayukta and Uplokayukta Act 1995. A copy of the order was directed to be sent to the Director (Local Bodies), as also to Secretary (Urban Development) GNCT Delhi, Pr. Secry. to Lt. Governor, and Pr. Secy. to Chief Minister, Delhi for necessary coordination and guidance in the matter to the concerned authorities.

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The matter was urgent since the regularization process would not only augment the revenue of the Municipal Corporations, apart from giving much needed relief to the residents of these unauthorised regularized colonies.

Political parties across the board are not tired of proclaiming and reaffirming their commitment and holding out assurances for regularization of unauthorised colonies, yet at the same, time keep blaming each other for inaction and resultant stalemate in the regularization of constructions in unauthorised colonies. However when it comes to taking concrete steps for regularization then there is reluctance. Resultantly the present regime of unauthorised constructions continues with mal-administration and corruption ruling the roost in the absence of sanctions and regularization.

It is unfortunate that despite the service of order containing tentative and proposed suggestions under section 16 of the Delhi Lokayukta and Uplokayukta Act 1995 and seeking necessary cooperation and guidance from the office of the Chief Minister and the Lt. Governor and Director (Local Bodies) to the Corporation, no response has been filed except one by the EDMC. In this response, it is reiterated that under Bye-law No. 6.2.9 and Appendix Q of Building Bye laws, the ownership documents in the shape of lease deed, sale deed etc. are required for sanction of building plan or regularization of existing building structures constructed without obtaining any sanction. It is claimed that relaxation has been made in the policy whereby the GPA holder on behalf of the owner can sign the building plan application alongwith the building plans and documents. The GPA and Sale Agreements either registered or notarized can be considered as sufficient proof to establish the date of sub division/amalgamation but not as proof of ownership. In the absence of these documents being regarded as proof of ownership, so called

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relaxation has only limited value. In these circumstances, if warranted, appropriate amendment in Municipal Bye laws can be considered.

In these circumstances, it is considered necessary and expedient to issue notice to the Secretary (Urban Development) GNCT Delhi and Pr. Secretary to Chief Minister to have their inputs and responses returnable on 19th August, 2013 at 2.30 PM. Copy of these proceedings be also sent to Secretary (Urban Development) GNCT Delhi and Pr. Secy to Lt. Governor Delhi for information.

Mr. Devi Dayal Sharma and Mr. N.L. Thapa two willing aspirants for regularization are present today. They state that they had given the documents to Mr. D.K. Sharma, Architect in the office of AE (B), SDMC but there appears to be some reluctance on the part of Sh. D.K. Sharma to do the work for a fee of Rs. 2500/- each.

Mr. Dahiya states that he would request Mr. Rajiv Dhiman Architect, who had already agreed to prepare the applications for regularization in an another matter before this forum at a fee of Rs. 5000/- per application inclusive of incidental and out of pocket expenses to prepare the applications for regularization of these applicants at the same fee of Rs. 5000/- per application. Mr. Dahiya further undertakes that he will get the papers of these applicants back from Mr. D.K. Sharma Architect.

As no response has been received from SDMC, let notices be issued to Mr. K.P. Singh, SE SDMC and Mr. Krishan Kumar, Deputy Commissioner SDMC to be personally present before this forum on the next date alongwith the counsel duly instructed in the matter.

Renotify the matter for 19th August, 2013 at 2.30 PM.


(Justice Manmohan Sarin)
Lokayukta, Delhi

31st July, 2013
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