

**BEFORE THE HON'BLE LOKAYUKTA  
JUSTICE MANMOHAN SARIN  
COMPLAINT NO. C-1866/LOK/2012**

IN THE MATTER OF:-

SHRI PRABODH SHARMA,  
S/O. LATE SHRI RADHEY LAL,  
E-41, SATYAWATI NAGAR,  
ASHOK VIHAR-III,  
DELHI-110052

.... COMPLAINANT

VERSUS

SMT. MEERA AGGARWAL,  
COUNCILLOR, WARD-66,  
MAYOR, NORTH DELHI MUNICIPAL  
CORPORATION

.... RESPONDENT

PRESENT:

1. Shri Vijay Kumar Gupta, Advocate, Counsel for the Complainant, with Shri Prabodh Sharma, Complainant in person.
2. Shri Himanshu Upadhyaya, Advocate, Counsel for the Respondent.

**ORDER**

1. Shri Prabodh Sharma, Complainant, filed this complaint on 3<sup>rd</sup> December, 2012, against the Respondent Smt. Meera Aggarwal, Councillor Ward No.66 and Mayor, North Delhi Municipal Corporation, in Form No.2, duly supported with his affidavit in Form No.3.

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2. Complainant accused the Respondent of misuse of power, highhandedness and forcing the officers to go against well laid out procedures in naming of Sawan Park Underpass.
3. Complainant states that Sawan Park Underpass was constructed by Railways and MCD in Ashok Vihar, Phase-III. Upon completion of construction of the Underpass and the road, the Project Division of Civil Lines Zone of MCD handed it over to the PWD on 20<sup>th</sup> June 2012.
4. It is averred that the Sawan Park Underpass was inaugurated earlier on 3<sup>rd</sup> December 2011 by the President of BJP, Shri Vijender Gupta. The Complainant contends that once the Underpass and the road had been handed over by the MCD to PWD, the action of the Respondent in naming of the Underpass as "Swami Narayan Underpass" is illegal and without jurisdiction. The North Delhi Municipal Corporation could not have passed any Resolution in the matter in violation laid down norms and procedure.
5. Complainant also avers that with the handing over of the road and the Underpass to PWD, the jurisdiction was that of the State Naming Authority of Delhi Government for selecting a name. Besides, it is urged that the name "Swami Narayan Underpass" is a name which is identical to the name of another road in Ashok Vihar from Wazirpur Water Tank. It was not desirable to have two different roads or entities with the same name.
6. Complainant also objects to the installation of foundation stones in the name of Sadhvi Param Poojya Anand Didi (Askhar Jyoti) and the factum of the invitation card for

the naming of the road carrying emblems of "Swami" and "Narayan". Complainant has supported his averments regarding the handing over of the road to the PWD and the inauguration of the "Swami Narayan Underpass" with replies secured in response to RTI queries. The replies have been filed along with the complaint and a photocopy of the invitation card.

7. Upon notice, the Respondent filed her reply duly signed by her and supported with a letter from the Commissioner, NDMC, conveying Resolution No.1 dated 12-07-2012, regarding naming of the Underpass connecting Swami Narayan Road to GT Road in Ward No.66, as "Swami Narayan Underpass Road". The said Resolution records that Bhagwan Swami Narayan was a spiritual man, whose life was a lesson in peace, love and harmony and in fighting against racial discrimination and other evils in society. He opposed many social evils such as Sati, animal sacrifices, black art, liquor and tobacco. The letter records that the Underpass road was within the maintenance period and it had been handed over to the PWD recently.

8. At this stage, notice may be taken of another aspect which has a bearing on the matter in controversy. The Government Of NCT of Delhi vide Order No. 13(62)/UD/MB/2012/593-599 dated 10-01-2012 decided that roads having right of way of 60 ft. and above belonging to the erstwhile MCD would vest with the Govt. of NCT for ensuring their proper maintenance and upkeep.

9. It is not in dispute that the right of way of the said Underpass is more than 60 ft. Hence the same stands transferred to and vests in Government of NCT of Delhi

for maintenance. It is also not in dispute that a State Naming Authority has been constituted by the Lt Governor of Delhi and vide Order dated 07-05-1999 read with Order dated 09-09-1999. The jurisdiction of the State Naming Authority extends to all roads, streets, parks, colonies and other geographical entities in the NCT of Delhi, except those vested in MCD / NDMC.

10. It is the contention of the Respondent that the handing over of the Sawan Park Underpass to PWD, Govt. of NCT of Delhi is only for the purpose of maintenance, while all other functions such as sanitation, parking facility, display of advertisements, etc. remained with the MCD. In other words, it is only for the purpose of maintenance that the vesting is with the PWD Govt. of NCT, while for all other purposes, the road/underpass continues to vest with the MCD. Respondent, therefore, contends that as a Councillor and Mayor of North Delhi Municipal Corporation, it was fully within their jurisdiction to give a name to the said underpass. The proper procedure regarding Resolution by the Corporation has also been followed. There is, thus, no question of the Respondent having misused or abused her powers.

11. Having noted the facts giving rise to the controversy, the legal issue which arises and is required to be considered is "whether it can be said that vesting of the Underpass and road is for maintenance purpose only or NDMC stands divested of all its rights in relation to the said road/underpass?".

12. It is not in dispute that facilities such as drainage, sanitation, even provision of parking facilities and lighting in relation to the Underpass and road as also display of

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advertisements lies with the Corporation. From the foregoing, it has a plausible and arguable case that the right to name the road still vests with the Corporation.

13. For the purposes of constituting an 'allegation' under Sec. 2 (b) (i) of the Delhi Lokayukta & Upalokayukta Act, 1995, the public functionary's conduct should have been such that she / he has failed to act in accordance with the norms of integrity and conduct which ought to be followed by public functionaries, or there should have been abuse or misuse of position to obtain any gain or favour to himself / herself or to any other person.
14. In the instant case, the Respondent cannot be accused of having failed to act in accordance with the norms of integrity and conduct. Moreover, it is not as if the Respondent has named the underpass after any of her relations or any other living political leader to gain any favour for herself. Undoubtedly, the underpass has been named in the memory of a revered social reformer, who had fought social evils in the society such as Sati, female infanticide and had attained spiritual heights and was a supporter of female education. The act of naming the road in the memory of "Bhagwan Swamy Narayan" cannot be said to be a selfish act. For a conduct to fall within the ambit of 'allegation' within the meaning of Sec. 2 (b) (i) of the Act, the act or conduct should be patently an illegal act or an act without jurisdiction or in violation of norms of integrity.
15. In the instant case, as noticed above, NDMC has a plausible and arguable case for having jurisdiction over the naming of the underpass.

16. In view of the foregoing discussion, the Complainant has failed to establish that the conduct of the Respondent is in violation of the norms of integrity and conduct or is an abuse or misuse of power. Accordingly, the complaint is dismissed. File be consigned to record.

  
(JUSTICE MANMOHAN SARIN)  
LOKAYUKTA

Date: 23rd August, 2013  
HEMANT