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BEFORE THE HON'BLE LOKAYUKTA
JUSTICE MANMOHAN SARIN
COMPLAINT NO. C-2120/LOK/2013

In Re:-

Sh. Tarsem ChoudharyComplainant

Vs.

Sh. Abhishek Dutt, Municipal Councillor

Ward No. 159.Respondent No.

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Smt. Savita Gupta, Municipal Councillor

Ward No. 160 ...Respondent No.2

ORDER

1. Complainant Sh. Tarsem Choudhary, filed a complaint dated 9th May, 2013, alleging irregularities in the running of the Community Centre. He alleged that the charges for use of Community Centre were fixed of Rs. 15,000/- per day. Security amount of Rs. 10,000/- was also required to be deposited. Additionally, sanitation charges and tenting etc. were payable.
2. Complainant alleged that Respondents, Municipal Councillors were misusing their powers by pressurizing the Caretaker of the Community Services Department, in organizing and holding their personal functions in the Community Centre without paying the requisite charges. The modus operandi being to book functions at the Senior Citizens Recreation Centre for

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which there was no charge and along with it use the lawns thereby avoiding the booking of Community Centre.

3. The allegations against Respondent No. 1. Sh. Abhishek Dutt, Municipal Councillor was that he had organized a Health Checkup Camp which was sponsored by Rotary Club of Delhi, South Extension, in the Community Centre on 1st March, 2013. Neither any permission from the South Delhi Municipal Corporation was taken from nor any charges were paid. It was further alleged against Respondent no. 1 that on completion of his tenure of one year as Municipal Councillor, he held a felicitation function for Senior Citizens. Again, no charges were paid for using the lawns. In support of his allegations, Complainant annexed photocopy of the pamphlet announcing free Health Checkup Camp. It informed that the Rotary Club of Delhi South Extension and the Senior Citizens Forum South Extension-II, were organizing the free Health Checkup Camp. The venue was given as Community Centre South Extension Part-II. Photographs of the Respondent no. 1 along with another organizer were also filed regarding programme on 28th April, 2013. Pamphlet carried the photograph of the National Congress leaders along with Sh. Abhishek Dutt. It had the following legend regarding the functions and celebrations.

"On successful Completion of one year of my tenure as
Municipal Councillor Andrews Ganj Ward



SENIOR CITIZENS FELICITATION PROGRAMME –

28th April, 2013,

Venue-Senior Citizen Centre,

South Extension, Part-2

Time- 4.30 pm

ABHISHEK DUTT Municipal Councillor-91 9873500001

Courtesy: All Residents.”

4. The Complainant alleged against Respondent no. 2 Ms. Savita Gupta, that she had organized Holi Milan and Lunch programme in the Community Centre with the courtesy of the Residents Welfare Association, South Extension, Part-2. No charges were deposited for using the same. The Complainant also alleged that while Councillor and the Organizations in their support were organizing functions for the personal advantage of the Councillors without payment of requisite charges at the same time local public suffers on account of the Municipal Councillor not giving the “No Objection Certificate” to enable booking. Complainant also lamented that while the provision of “No Objection Certificate” as a pre-requisite for booking of Community Centre from Councillor had been discontinued in NDMC (North Delhi Municipal Corporation) but the SDMC had not yet implemented the Lt. Governor instructions and was insisting on NOC.
5. Vide order dated 21st June, 2013, a notice under Section-11 for conducting a preliminary inquiry was issued to Director CSD, SDMC for ascertaining whether no charges were paid by

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Councillors as alleged by the Complainant for holding of the functions?

6. On 23rd July, 2013, Sh. Yogender Babu, Assistant Director, South Delhi Municipal Corporation, informed the Forum that as per their records for the functions on 1st March, 2013 and 30th April 2013, booking was done of Senior Citizens Recreation Centre and not of the Community Centre, as alleged by the Complainant. He explained that Senior Citizens Recreation Centre and the Community Centre though distinct premises are situated within the same gated boundary. There were charges prescribed for use of the Community Centre but there was no charge for use of Senior Citizens Recreation Centre.
7. Complainant claimed that functions were organized by the Respondent Public Functionaries in the lawns outside the Community Centre and were not held in Sr. Citizens Recreation Centre as claimed by the Assistant Director Mr. Yogender Babu. Accordingly, Notices were issued to Respondents to show cause in respect of the allegations in the complaint, returnable on 21st August, 2013
8. Mr. Abhishek Dutt, Respondent no. 1 as well as Ms. Savita Gupta, Respondent no. 2 both appeared on 21st August, 2013. Respondent no. 1 appeared along with his Counsel and both were heard. Statement of Respondent no. 1 was recorded.

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Respondent no. 2 appeared in person. She was heard and her statement was also recorded.

9. Respondent no. 1 Mr. Abhishek Dutt, Municipal Councillor deposed that he had not organized any function in the Community Centre. The Health Checkup Camp was organized by the Senior Citizens Forum in the Senior Citizens Recreation Centre, which happened to be in the same compound as the Community Centre. He had only visited the Health Checkup Camp organized by the Senior Citizens Forum with Rotary Club on 1st March, 2013. He could not say whether any permission was obtained since he was not the organizer. Regarding the Function on 28th April, 2013, he had admitted to organizing the same for felicitation of the Senior Citizens on completing one year as Municipal Councillor. Sr. Citizens Recreation Centre and the lawns outside were also used. No payment at their end was made. He produced a letter dated 19th April, 2013, by which he had informed the Director CSD, SDMC that a programme was being organized for felicitation of the Senior Citizens at the Sr. Citizens Recreation Centre. Interestingly while organizing a function to celebrate the completion of one year as Councillor he wanted to felicitate the Sr. Citizens.
10. This could easily come in the category of a political function, for personal advancement. Venue had been described as "C-Block

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Community Centre, South Extension Part-2". He stated that Community Centre was not used only the Sr. Citizen Recreation Centre was used along with lawns. In case the Corporation finds that payment was to be made for using the lawn, he was ready for the same as required.

11. Respondent no. 2, Savita Gupta, Municipal Councillor, filed a reply. In addition she recorded her statement. She stated in her reply that the "Holi Milan Function" was organized by the Resident Welfare Organization of NDSE Part-II in the park in front of Senior Citizens Recreation Centre. In her statement on oath, she said she was invited as a "Guest of Honour" in Holi Milan Function. The Community Centre was not used by RWA for the function. Only the Senior Citizen Recreation Centre was used. She stated that she knows there are no charges to be paid for the use of Senior Citizen Recreation Centre but charges are to be paid for use of the Community Centre.
12. The Community Services Department, South Delhi Municipal Corporation, has filed its reply, in which it has been averred that "Health Checkup Camps" could be allowed in Senior Citizens Recreation Centre upon prior permission from the Competent Authority. Reference of circular of 9th March, 2010, is given, whereby no charges are required to be paid for using Sr. Citizens Recreation Centre, only prior permission has to be

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granted. Mr. Yogender Babu when confronted with the letter of 19th April, 2013, stated the same was received by the Department on 25th April, through the Director Horticulture. 27th and 28th April, 2013 were weekend and the function was held on 28th April, 2013. Hence, permission could not be granted.

13. On perusal of statements of the Respondents, pleadings by the Complainant and the Respondents as also the stand of the Community Service Department, the crux of the matter appears to be that there are no charges for the use of Senior Citizens Recreation Centre only permission is required for use of Health Checkup Camp etc. However, for the use of Community Centre there are charges. The Community Centre Booking does not separately give the charge for the use of lawns, which are inbuilt in the charge. The issue requiring resolution is that the Councillors and others book the Senior Citizens Recreation Centre for which there are no charges and since it happens to be in the same compound, they also use the lawns which are actually supposed to be available with the Community Centre. In this process, booking of Community Centre and payment of charges is avoided.

During the hearing a consensus was arrived at between the Complainant, Respondents and CSD Department of the Corporation that the use of Senior Citizens Recreation Centre

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may not include the use of the lawns. It was proposed that for convenient user of the Sr. Citizens Recreation Centre, some additional space be provided. It was suggested that a railing be fixed abutting outside the structure of the Senior Citizens Recreation Centre, leaving space of four feet or so, which would be the area available for use of the Sr. Citizens Recreation Centre. In case, Senior Citizens Recreation Centre wishes to use any further part of the land, which essentially is integrated to the Community Centre, then charges for the same be paid. Mr. Babu, Assistant Director does not foresee any problem and finds the above solution acceptable, subject to its approval by the higher authorities for which he would initiate the process.

14. The Complainant has also recorded that his complaint would stand satisfied if the above procedure is adopted.
15. The Respondents have candidly admitted the holding of the programmes and explained that as per existing practice, use of Sr. Citizens Recreation Centre along with its lawns was not payable, but have agreed that in future after railing is fixed leaving space of four feet or so, use of lawns be treated as the use of the Community Centre and should be payable as per the prescribed rates.

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16. Considering that Respondent no. 1 Sh. Abhishek Dutt has given an offer to pay the charges if any found payable and has shown that he is more than willing to abide by the aforesaid arrangement, in these circumstances a quietus deserves to be applied in the matter.
17. Accordingly, this complaint is disposed of as satisfied with the following recommended procedure agreed to between the Complainant, Councillors and the CSD Department of South Delhi Municipal Corporation;
- (a) The use of Senior Citizens Recreation Centre when booked would be confined to the Senior Citizens Recreation Centre premises as enclosed by a railing to be put up, abutting the premises at a distance of four feet or so. It shall not include the use of the lawns.
- (b) The use of the lawns for any function, if required while booking the Sr. Citizens Recreation Centre for which there is no charge, would be available on charges payable at the prescribed rates for use of lawns/Community Centre.
- (c) The South Delhi Municipal Corporation shall ensure that the use of Senior Citizens Recreation Centre is confined to the purposes for which it is meant and Health Checkup Camps etc. would not be permitted to be held without prior permission.

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Booking of the Community Centre would include the facility for use of its lawns.

- (d) The South Delhi Municipal Corporation may frame guidelines specifying the festivals or occasions on which booking of the Community Centre and /or its lawns would be free of charge or at concessional rates as it deems fit in public interest

18. Copy of the order be sent to Commissioner, South Delhi Municipal Corporation for implementation and to His Excellency the Lt. Governor for information. Complaint stands disposed of.

File be consigned to record room.


(JUSTICE MANMOHAN SARIN)
LOKAYUKTA

Dated : 11-09-2013

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