

**BEFORE THE HON'BLE LOKAYUKTA
JUSTICE MANMOHAN SARIN
COMPLAINT NO. C-479/Lok/2010**

IN RE- LOKAYUKTA ON ITS OWN MOTION

Preeti Behn Original Informant

Versus

Shri Ravinder Chaudhary, Municipal Councillor,

H-58, NDSE-I,

New Delhi-110048 Respondent

AND

IN THE MATTER OF

COMPLAINT NO. C-1291/Lok/2012

Mr. Gautam Anand,

R/o. 62, Sector-37, NOIDA,

Uttar Pradesh-201301Complainant

Versus

Shri Ravinder Chaudhary,

Municipal Councillor,

H-58, NDSE-I,

New Delhi-110048 Respondent

MB

REPORT

1. NDSE-I Residents Welfare Association, in a Complaint dated 21-09-2010, alleged that Shri Ravinder Chaudhary, Municipal Councillor and Respondent herein had carried out unauthorized and illegal construction in premises No. H-58 and H-59 NDSE-I. Further, that he had encroached upon land adjoining House No. 73-75A in South Extension Part-I, which was meant to be kept as an open space / park. MCD was accused of not demolishing the illegal constructions in premises No. H-58 and H-59. The complaint is annexed hereto as **Annexure-A**.

2. This complaint was listed for hearing along with Complaint No. C-282/Lok/2010, wherein allegations of unauthorized construction and encroachment on public land by over 60 public functionaries was being inquired into.

3. During the course of hearing, another Complaint registered as C-1291/Lok/2012, filed by Complainant Shri Gautam Anand against the Respondent was clubbed with Complaint No.C-479/Lok/2010 for, being heard together since they entailed similar allegations against the same public functionary. The complaint is annexed hereto as **Annexure-B**.

4. Respondent being a 'public functionary' within the meaning of Sec. 2(m) of the Delhi Lokayukta & Upalokayukta Act, 1995 (hereinafter referred to as "the Act"), was issued notice for inquiry under Sec. 7 r/w Sec. 2 (b) of the Act, in both the complaints i.e. C-479/Lok/2010 & C-1291/Lok/2012.
5. Simultaneously, status reports were also sought from the MCD in respect of properties belonging to the Respondent and / or in which he had interests and which were allegedly having unauthorized and illegal constructions.
6. The inquiry in the complaints witnessed a number of hearings, during which this Forum kept on following up with the MCD, reminding them of their statutory duty of proceeding against unauthorized constructions and goading them into action, by raising specific queries and seeking reports on action taken.
7. It is not necessary for this Forum to elaborately describe or deal with the various stages of inquiry proceedings. It would suffice if the findings reached regarding the extent of compoundable and non-compoundable portions of unauthorized constructions reported in Respondent's properties are spelt out

together with the inferences regarding the conduct and act of the Respondent.

8. As the record would show, in these proceedings the Respondent had admitted the factum of unauthorized construction in properties H-58, H-59 and H-60, NDSE-I, after his election as Municipal Councillor but he claimed the same to have been removed/demolished.
9. The allegation of Respondent encroaching upon land adjoining Plot No. H-73-H-75A, NDSE-I, meant for a park, was not found to be substantiated. As per the status report filed by MCD, the said land was not part of a park but was simply adjacent to the road across the park. One Ashok Kumar was found to be the owner of Plot No. H-74 and it was developed by DLF.
10. The unauthorized construction in House No.H-58, H-59 NDSE-I was also subject matter of a PIL in the High Court of Delhi. Different residents of NDSE-I and particularly part owners of property No. H-58, H-59, H-60 and E-72, who had either suffered sealing or demolition action of their portions in the properties, complained that the Respondent had interest in third and fourth floor of the buildings, where even a guest house was being run. Their grievance was that no

action was being taken against the Councillor, since he was Chairman of the Central Zone Committee of MCD.

11. Gautam Anand, Complainant in Complaint No. C-1291/Lok/2012, apart from complaining in general against unauthorized construction by the Respondent Councillor, claimed that the Respondent, with a view to bring the height of the building E-72 and H-68 within the 15 Mtr. limit, got constructed a concrete cement patch on the road, in front of the said buildings, raising the road level so that the height of the buildings when computed from the raised road level would come within 15 Mtrs and thereby save some part of the top floors belonging to the Respondent from demolition.
12. Gautam Anand listed seven allegations, the first one having already been noticed, the remaining six are:-
 - i) Encroachment of School and in its support reference was made to a newspaper report.
 - ii) Illegal notification of Jag Ram Mandir Marg to benefit himself and his relatives.
 - iii) Respondent continues to encroach on public land and is running a cement shop next to Mother Dairy, NDSE-I, but MCD refuses to take action.
 - iv) Respondent has broken the MCD seals but the police and MCD refuse to take action for reasons best known to them. The height of all the

buildings, in which Respondent has illegal floors, is more than 15 Mtrs but the MCD has remained silent and has manipulated the regularization to benefit the Ex-Councillor.

- v) Respondent continues to keep building E-72 NDSE Part-I sealed to frustrate the other co-owners into selling their portion to him at throwaway prices.
- vi) Reliance Mobile Tower on the terrace of E-72 NDSE-I was illegal and without any permission from MCD. No licence fee has been paid to MCD and the tower was installed by forging the signatures of co-owners. There was misrepresentation regarding consent of co-owners.

13. No supporting evidence was led by the Complainant in respect of allegations at (i) to (iii), which remained unsubstantiated. However, for the other allegations, inquiry proceedings and applications filed from time to time and documents submitted, status reports of MCD, together with the action taken reports, ownership and interest of the Respondent, his family, brothers and father, was found in the under mentioned properties, in respect of which the nature and extent of unauthorized construction carried out are also indicated:-

- i) H-58, NDSE-I - 400 Sq. ft. on the first floor and complete third floor.
- ii) H-59, NDSE-I - Basement, Ground floor, First floor and third floor.
- iii) H-60, NDSE-I - Basement, Second Floor and Third floor.
- iv) E-72, NDSE-I - Second floor roof rights

Regarding the extent of unauthorized constructions and the action taken, the amalgamation of the two properties, i.e. H-58 & H-59 was shown, which was not permissible. Demolition action was taken in respect of the unauthorized construction in the buildings. One room on the fourth floor was left in unusable and uninhabitable condition. The buildings were sealed.

Unauthorized construction was found in all the floors of H-59 owned by the Respondent, completely or partially.

In premises No. H-60, Respondent is stated to be owning the basement, second floor and third floor. The basement was regularized, however, rest of the building was sealed.

In H-68, the Respondent claims that he did not own any part of the building. The entire building except the second floor was sealed.

In E-72, Respondent had interest in third floor and fourth floor. The unauthorized constructions, deviations, excess coverage on the fourth floor were demolished by MCD. Reliance Mobile Phone Tower, which was also without permission, was sealed along with the property. The MCD found tampering of seals of third floor and terrace of third floor of E-72 belonging to Respondent. The electricity meters were found to be active, which demonstrates tampering of seal for use of electricity and premises. Even the cell phone tower on the roof of third floor was found operational. Respondent cannot disclaim responsibility on the plea of being the same to be tenanted / licensed property, not in his power and control.

14. During the course of proceedings, MCD had reported that properties H-58, H-59, H-60 and H-68 were lying sealed. This also hindered the process of demolition of unauthorized constructions and non-compoundable portions. MCD was advised to seek the permission of the competent authority for de-sealing and also approach the MCD Appellate Tribunal before whom appeal in respect of Mobile Tower on the third floor roof

