

**BEFORE THE LOKAYUKTA, DELHI**  
**JUSTICE MANMOHAN SARIN**  
**COMPLAINT NO. 2284/LOK/2013**

In the matter of:-

Sh. S.C. Gupta ... Complainant

Vs.

Smt. Seema Pandit  
Municipal Councillor Ward No.145 ... Respondent No.1

Sh. Vjay Pandit, Ex Municipal Councillor ... Respondent No.2

AND

In the matter of:-

**COMPLAINT NO. C-1957/LOK/12**

Ms. Usha Sharma ... Complainant

Vs.

Ms. Parmila Tokas  
Municipal Councillor Ward No. 166 Munirka ... Respondent No.1

Deputy Commissioner, SDMC ... Respondent No.2

**REPORT**

1. The two Complaints are being decided and dealt with together as they raised common legal issues. However, the facts and the evidence recorded in both the Complaints are being separately considered.

COMPLAINT NO. 2284/LOK/2013

2. A pseudonymous communication purporting to be from one S.C. Gupta, who wanted to withhold his identity, was received in this office enclosing a list of 55 pensioners of Ward No.145, Najafgarh Zone, Delhi. It was claimed that these persons were getting pensions owing to their allegiance with the Respondent, Mrs. Seema Pandit, Municipal Councillor Ward No. 145, and her husband Sh. Vijay Pandit, Ex Municipal Councillor, though they were not eligible. In the remarks column of the list attached with the communication, the Complainant gave the sources of income of the said pensioners. According to the Complainant, these pensioners were either gainfully employed or their spouses or family members had other sources of income.
3. This communication was treated as "other information" under section 7 of the Delhi Lokayukta and Uplokayuka Act 1995 (hereinafter referred to as "the Act") and registered as a Complaint. Copy of the Complaint is annexed hereto and marked as ANNEXURE-I.
4. Notice was directed to be issued vide order dated 7.8.2013, to the Commissioner, South Delhi Municipal Corporation to confirm whether these persons were getting pension. Further, to have a field enquiry conducted to ascertain the veracity of the allegations regarding the said persons or their spouses being possessed of other sources of income, therefore, being ineligible under the scheme for grant of pension.
5. Notice was also directed to be issued to Ms. Seema Pandit and her husband Vijay Pandit, Ex Municipal Councillor, under section 7 (2)(b) of the Act for inquiry into the allegations of misuse of power by recommending alleged ineligible

pensioners instead of deserving persons for extraneous factors. Hence, their failure to act in accordance with the norms of integrity and conduct expected of a 'public functionary'.

6. Another communication containing a similar list of pensioners was also received from an NGO namely, "Nai Asha Ek Kiran". This was also taken up for consideration along with the above said complaint
7. Shri Rajiv Kumar, Administrative Officer, Najafgarh Zone SDMC tendered the status report in response to the notice issued. Statement of Shri Rajiv Kumar was also recorded on oath. Copy of status report and statement of Shri Rajiv Kumar are annexed hereto and marked as ANNEXURE-II (COLLY).

As per the status report filed, inspection was carried out by Sh. Ajay Kumar, Licensing Officer alongwith Sh. Vinay Kumar LDC in respect of all the 55 pensioners mentioned in the list and they were not found to be eligible for grant of old age pension. Names of these 55 pensioners have since been deleted from the list of pensioners of ward No. 145 and notices to them for refund of the already disbursed pension amount issued. Major penalty proceedings against area Sanitation Inspector Sh. Anil Kumar Yadav have been initiated, by referring the case to Vigilance Department.

Shri Rajiv Kumar, Administrative Officer, deposed that in the first instance, a Councillor certifies the eligibility of the applicants/pensioners and makes recommendation for grant of pension. As per the guidelines, there is further requirement of certification by the Sanitary Inspector/Assistant Commissioner/Investigating Officer of the area, who scrutinizes

the application and documents for completeness. Deputy Commissioner is the sanctioning authority.

8. Respondent Seema Pandit in her reply stated that she submitted the applications of the pensioners in terms of Circular dated 4.12.2012. She admitted that if any applicant provides wrong details/ information in the application form, she does not verify it but all the documents furnished and duly signed by the applicant are forwarded for verification and approval of the Competent Authority. According to her, the Competent Authority or the Verification Officer can approve or reject an application. This verification is to be done by the staff and officers of Sanctioning Authority. She submitted that if the information given by the applicants is found to be false by inspecting Officers during verification, their names should be removed and pension should be stopped. The reply fails to address the issue of her responsibility for recommending ineligible applicants for grant of pension.
9. Respondent's statement was also recorded on 23.9.2013 on oath. She admitted that she does not do any verification on receiving the application forms from the applicants regarding their entitlement and simply forwards the same with all the documents received for verification and approval. She stated that when a person approaches her for pension, she asks him/her as to how many of his /her family members are earning members? Whether they were drawing pension from any other Forum? This is the only enquiry she makes. She does not enquire about the extent of income of other members of the family i.e. brother, sister, son, daughter, etc. If a lady comes to her and says that she has no source of income and shows her

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BPL card, she recommends her case. She admitted that in these 55 cases, she did not do any verification and accepted the affidavits alongwith the applications as filed. She further stated that out of the said 55 persons, 6 persons were known to her and the rest she would possibly know by face. Two persons, she indicated, have since expired. These persons were alive when she had made a recommendation. She stated that the Department verifies and in fact had returned 200 forms due to incomplete documents and others for wrongful declaration. These cases were not processed for pension. Upon a sample form being shown to the Councillor together with the "certification" done by her, she admitted that she did not do any physical verification or make any enquiry but only saw the documents. She claimed that the other Councillors in the zone were recommending the applications and forwarding the same without physical verification. This practice was prevalent in all the wards of Najafgarh Zone, but enquiry was being done only in her ward. Finally, she said that she was sorry for what had happened.

10. Mr. Vijay Pandit, her husband and Ex-Councillor deposed on oath and claimed that Administrative Officer of Najafgarh zone was trying to mislead this forum. He claimed that Corporation was acting irrationally as there were some cases which have been wrongly removed from the list. He cited the case of one Santosh, whose husband is working with him as a peon on a monthly salary of Rs. 3000/-. Santosh would still be eligible for pension. He emphasized on the role of the Investigating Officer, who after recommendation of the Councillor is required to go to the site, verify and then give the certification. In these cases,

verification has not been done by the Department. He also pointed out the cases of Yogender Singh, Mange Ram, Rajender Saini, Hari Singh, Sumitra and Santosh Kumari who were poor people and in need of pension, but their names were wrongfully deleted.

11. It would be relevant at this stage to notice the contents of Circular No. 465/CSD/HQ/2012 dated 4<sup>th</sup> Dec. 2012 on the subject of "Rules/Guidelines for Grant of old Age Stipend" issued by the Community Services Department of SDMC. Copy of the Circular is annexed hereto and marked as ANNEXURE-III.

It would be pertinent to reproduce verbatim some of the salient conditions of eligibility as given in the Circular:-

- i) Persons having attained the age of 60 and being incapable of doing remunerative work and whose family income does not exceed Rs. 4000/- per month are eligible for consideration for grant of pension.
- ii) Condition of residence for the last five years in SDMC area.
- iii) Certain categories of Handicapped persons are eligible though not having attained the age of 60, destitute, disabled with permanent disability of over 50%, divorcees etc.
- iv) Those suffering from serious ailments.
- v) The submission of application is required to be accompanied with proof of age, residence etc. and particulars of Bank Account.
- vi) Further, proof of annual income from all sources not being more than Rs. 48,000/-

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- vii) The Application Form for grant of pension, inter alia, requires an oath by the applicant to be taken which runs as under:-

"I declare that prior to this I never applied for stipend from any other Ward or from any other Government Agency. I state on oath that the above information is correct and if any of the above information is found to be false, I shall be liable for legal prosecution.

Signature of the Applicant"

- viii) It also records the approval and certification to be recorded by the Municipal Councillor and the Officer in Charge in the following terms:-

"Approval of the Municipal Councillor of the Ward

I certify that the above mentioned information is true to my knowledge and I recommend pension to him/her from my quota.

Date: \_\_\_\_\_

Name & Signature of  
Municipal Councillor  
(With Stamp)"

"Report of the Officer in Charge

I certify that as per my investigation the information of the person mentioned above has been found to be true.

Date: \_\_\_\_\_

Signature of Officer Incharge"

- ix) Regarding the mode of payment, it is provided "Pension should not be distributed through ECS. It should be distributed through prevailing system, i.e. payment through cheque through the Sanitary Inspector".

- x) One of the provisions under the Head "Miscellaneous" is that "once the benefit of old age stipend is sanctioned to the applicant against the quota available, the new applications can be

recommended by the area Councillor only if the quota is increased or number of pensioners decreases because of some other reason/reasons"

- xi) Another term which requires to be noticed is that "After the SDMC General Elections, the cases of pensioners drawing old age stipend should be at the discretion of the Municipal Councillor, whether he or she intends to recommend the names of old pensioners, new pensioners or partly existing and partly new pensioners".

A copy of a sample application form is annexed hereto as ANNEXURE-IV.

12. As regards the processing of the applications based on the above criteria, the Deputy Commissioner of the Zone is the Sanctioning Authority. Scrutiny of all applications along with requisite documents for completeness is to be done by an officer not below the rank of Assistant Commissioner. The Deputy Commissioner then passes orders on the report of Assistant Commissioner, Investigating Officer/Scrutinizing Officer. Identity Cards are then to be issued for availing the grant of pension.
13. A pre-requisite is the submission of application form duly certified/recommended by the funding Municipal Councillor. Each Municipal Councillor has a quota of about 700 pensioners to be recommended and in monetary terms the grant amounts to Rs. 7.00 Lacs a month or Rs. 84.00 Lacs annually.

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There is also a discretionary quota provided for 950 pensioners to the Mayor and 570 pensioners to the Deputy Mayor, Chairman of Standing Committee, Leader of the House



and Leader of Opposition. There are provisions for transfer of Ward etc with which we are not concerned.

14. Having noticed the salient terms and conditions and procedure for processing of the applications for eligibility and other conditions for grant of pension and the manner of processing, the Respondents had been asked to produce the records of the rejected applicants. On a cursory perusal of the forms, it is noticed that in most of the application forms submitted by old women/applicants, it is mentioned "Dependent on son". The monthly income or rental income is shown as "Nil". While the forms do not carry a disclosure with regard to income of the son or any other member of the family, nor any specific query raised to ascertain the family income from other sources to arrive at a conclusion of it being less than Rs. 48000/- per annum. The affidavit also usually carries the total yearly income. In some of the affidavits, the total yearly income of the applicant is mentioned and in others family income is mentioned. In such forms also, there is no disclosure about the vocation and earnings of other members of the family being gainfully employed or not.
15. The aspects of payment of cheque through the Sanitary Inspector instead of ECS and the right of the Councillor to choose a fresh set of pensioners upon being elected, and lastly, the deficiencies noticed in the manner of processing will be commented upon and dealt with under the head "Suggestions", under Sec. 16 of the Act, for improvements.

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COMPLAINT NO. C-1957/LOK/12

16. In complaint No. 1957/LOK/2012, Ms. Usha Sharma, R/o H. No. 35, Village Munirka made a complaint claiming therein that she is 70% disabled and she along with her aged parents was receiving pension for the last 10 years. Her pension as also the pension of her parents was sought to be stopped by the present Municipal Councillor, Mrs. Parmila Tokas. This Complaint was treated as "other information".
17. Upon receipt of the complaint, notice was issued to Mrs. Promila Tokas under section 7 (2) (b) (i) of the Delhi Lokayukta and Upalokayukta Act, 1995, and her comments were sought.
18. In her response, Smt. Promila Tokas claimed that the lists for the year 2011-12 and 2012-13, which she had received from SDMC, did not contain the names of Complainant and her parents and therefore their names could not be included in the list of pensioners. Information was sought from SDMC, who claimed that since the names of the Complainant and her parents were not mentioned in the list of pensioners sent by the Municipal Councillor, therefore, their pension was stopped. It was claimed on behalf of the Respondent Municipal Councillor that the Complainant Ms. Usha Sharma was not residing at H. No. 35, Village Munirka. The Complainant Ms. Usha Sharma claimed that she had been residing in village Munirka itself but had shifted to another address in the village. Hence there was no cause for deletion of her name from the list of pensioners.
19. The second plea taken by the Respondent Municipal Councillor before this Forum was that there was information that Ms. Usha Sharma is gainfully employed with a security

agency at the salary of Rs. 5500/- per month as such she was not eligible for pension. It was also claimed that a shop was being run from the Complainant's house. In view of the above, Ms. Usha Sharma dropped her claim. She however persisted with her grievance that the pension of her parents had been wrongly stopped.

20. As per the reply filed by SDMC regarding the stoppage of pension of Sh. Chander Shekhar Sharma and Smt. Santosh Sharma, it was stated that the initial list of 568 persons furnished by Smt. Promila Tokas and subsequent lists received from the office of the Councillor recommending the names of the pensioners did not contain the names of both of them. Hence, their pension was stopped.

EVALUATION AND RECOMMENDATIONS IN COMPLAINT NO. 2284/LOK/2013 - " S.C. GUPTA V/S SEEMA PANDIT & ANR"

21. On a single complaint regarding 55 pensioners being ineligible for pension, all of them have been found, after inspection and verification, to be ineligible and their names deleted. The Respondent public functionary Smt. Seema Pandit and the Ex-Councillor, Shri Vijay Pandit have candidly admitted that there is no verification of the income of the applicant/pensioner done by them. Smt. Seema Pandit had stated that when a person of over 60 years of age approaches her for old age pension, claiming to be jobless, having no family income and upon her/his furnishing the documents, she makes the recommendation without any verification, as verification is the function of the Department.

This, to my mind, is a negation of responsibility in as much as the recommendation made by public functionary for grant of pension ipso facto entails satisfaction of the public functionary that the person being recommended is a deserving one, not having a family income of over Rs. 48,000/- per annum. Moreover, if we look at the certification signed by the public functionary, it is in the following terms:-

"Approval of the Municipal Councillor of the Ward

I certify that the above mentioned information is true to my knowledge and I recommend pension to him/her from my quota"

22. The information submitted by the applicant is certified as true to the knowledge of the public functionary. In these circumstances, it is not open for the Respondent public functionary to claim that it is not his/her responsibility. In the instant case, Smt. Seema Pandit, although at the conclusion of the proceedings stated that she felt sorry for what has happened, she and Respondent No.2, the Ex-Councillor also claimed that the situation was the same in all the Wards of Najafgarh Zone.
23. The feeling of remorse does not absolve public functionaries for having failed to discharge their responsibility as expected of them. In these circumstances, it is recommended to the Competent Authority, His Excellency, the Lt. Governor that :-
- i) A "Caution" be administered to the Respondents for their aforesaid conduct by which ineligible persons were recommended for pension and an "Advisory" be issued to them to be careful in future.

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EVALUATION AND RECOMMENDATIONS IN COMPLAINT NO.  
1957/LOK/2012 - " USHA SHARMA V/S PARMILA TOKAS"

24. It has come on record that Ms. Usha Sharma is employed with a Security Agency at Rs. 5500/- per month. Thereupon, she dropped her claim.

The Community Services Department of SDMC placed on record lists received from the Councillor, which did not include the names of Shri Chander Shekhar Sharma and Smt. Santosh Sharma, leading to the stoppage of their pension. The aspects of the right of a newly elected Councillor to add or delete the names of existing pensioners, are being considered under the head "Systemic Improvements" under Sec. 16, however, dehors the question of right of the Councillor to delete the names of existing pensioners at his / her will, in the instant case, the Department needs to have a verification done regarding the eligibility of the above two pensioners by verifying whether they have a common residence with Ms. Usha Sharma.

It is claimed that besides Usha Sharma's employment, a shop is being run by her sister-in-law from their residence. These facts along with the income of the brother, if any, needs to be assessed for determining the family income if they have a common residence. The CSD Department may determine the eligibility of Chander Shekhar Sharma and Smt. Santosh Sharma, after enquiry and a verification of the inputs given by the Councillor, etc.

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SUGGESTIONS FOR SYSTEMIC IMPROVEMENTS  
UNDER SECTION-16 OF THE ACT.

25. The above complaints have exposed and revealed the arbitrary and irrational manner in the processing of applications, grant of sanction and disbursement of old age pension. The total amount involved is substantial, considering that there are over 270 Municipal Councillors in Delhi. Each of the Councillor has a quota ranging from 500-700 (approx.) pensioners in their respective wards for grant of pension, presently Rs.1000/- per month. In addition, in all the three Corporations, there are separate quotas provided for grant of pension to the Mayor, Deputy Mayor, Leader of the House, Leader of Opposition, and Chairman Standing Committee. These also range between 500-900.
26. One of the perennial problems and a difficult and challenging task faced by the Administrators is to ensure that the benefit reaches the deserving persons for whose benefit such social welfare schemes are launched by the Government. It is the duty of the Corporators, Legislators and the Executive to ensure this and to plug loopholes and remove defects in the system, whenever malpractices come to their notice.
27. In a suo moto inquiry titled "Pension Ke Badle Parshad Mang Rahe Hein Chanda", in respect of a Municipal Councillor, it was found by this Forum that money was being extracted for release of pension cheques by collecting subscription for a magazine. To remove malpractices and corruption entailed in the disbursement of pension, this Forum had recommended that the accounts of the beneficiaries be credited through ECS (Electronics Clearing System) instead of pension being

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distributed through cheques by the Sanitary Inspector of the Ward.

This recommendation was duly accepted and a directive issued by the Hon'ble Lt. Governor, the Competent Authority, to the Commissioner, MCD, for its implementation. Unfortunately, instead of acting on the recommendation of the Lokayukta as directed by the Competent Authority, a Resolution No.77 was passed by SDMC by which it resolved "Pension would not be distributed through ECS system and it should be distributed through the prevailing system, i.e. payment by cheque through Sanitation Inspector. Further, that it would be at the discretion of the Municipal Councillor whether he or she intends to recommend the names of the existing pensioners, new pensioners or partly existing or partly new pensioners".

28. The resolution was sought to be justified on a specious ground that payment through ECS may entail risk when a pensioner dies. This completely ignores the fact that over 4-5 million pensioners of the Central and the State Governments receive their pension through ECS. All that is required to be done is to furnish once in a year a Certificate of Existence. In the case of pensioners of the Corporation, if so desired, Certificate of Existence can be required to be furnished quarterly to obviate even the minimal risk involved.
29. It is the considered view of this Forum that the actual motive behind the resolution passed is to ensure that the Councillors continue to maintain their hold over the disbursement of pension as a bounty, to be distributed at their will and pleasure, among those owing allegiance to them and part of their vote bank. The interests of the poor and deserving persons are

compromised at the altar of political expediency. As a consequence, malpractices and nepotism which should be nipped in the bud are nurtured under the protective umbrella of Councillors.

30. There is also no justification for the newly elected Councillors to delete the names of the existing pensioners. Earlier, the practice had been that only in the event of death, migration or the pensioner acquiring a source of income, could the pension be discontinued. The newly elected Councillor could fill up only vacancies or increase the quota as granted. It did not permit the Councillor to delete the existing pensioners and bring in those owing allegiance to him or his party.
31. A recommendation in this regard has also been sent to the Hon'ble Lt. Governor, the Competent Authority, as the Corporation has not been implementing the directive of the Competent Authority and passing Resolutions contrary thereto. It has also been brought to the notice of the Hon'ble Lt. Governor vide letters dated 29<sup>th</sup> August, 2013 and 30<sup>th</sup> August, 2013, that His Excellency, the Hon'ble Lt. Governor could exercise his power under Section 490A r/w Sec. 487 of the DMC Act, 1957, and direct the erring Corporations to enforce the accepted recommendations. This matter is awaiting action of His Excellency the Lt. Governor, and the recommendations made in this regard earlier are reiterated again, in these two cases.
32. Coming now to the Systemic Changes required in the receipt of application, processing and grant of pension, it is recommended under Sec. 16 of the Act that:-

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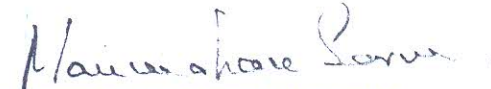
- (i) The responsibility of the Municipal Councillor should be clearly spelt out that he/she has to prima facie satisfy oneself that the applicant being recommended for grant of pension is a deserving one and not gainfully employed. Further, he/she does not have a family income of more than Rs. 48,000/- per annum.
- (ii) It is noticed from the application forms that though there is a provision regarding disclosure of income of the family members of the applicant, in practice, either the said details are not filled up, or filled up by only saying "photocopy of ration card is attached". The ration card does not carry the income of family members. Hence, even in the absence of this information which is vital for assessing the total income available to the applicant, pensions are recommended for sanction. Further, it is noticed that many cases carry endorsement "dependent on son". However, the nature of employment of son or his income is not disclosed.
- (iii) Accordingly, affidavit of the applicant in support of the application should clearly disclose the names of family members, their current vocation and income. Affidavits and the application forms currently only carry a clause that the family income is less than Rs. 48,000/- per annum without the disclosure of the vocation or income of the family members.

It has been noticed in some of the cases, persons owning property, and parents of journalists, gainfully employed, are recipients of pension.

- (iv) The application form has a column for certification by the Scrutinizing Officer that the details furnished have been found, after enquiry, to be true. The grant of pension is to be continued only then. In each of the case, there should be a brief description of the field enquiry made and the date thereof, rather than a ritualistic certification.
  - (v) Verification of the applications for grant of pension should be made one of the factors for judging the performance of the Scrutinizing Officer as it would reflect his propensity for hard work, integrity and probity, with which he performs his duties.
  - (vi) The Deputy Commissioner, who is the sanctioning authority, while sanctioning pension for the Ward, should do a random and sample check of the application forms for pension, with a view to satisfy himself and to ensure that the investigating officer/scrutinizing officer are duly discharging their functions.
33. In view of the undersigned, what has been exposed in these complaints, in respect of one of the Wards, is just the tip of the iceberg. Public functionaries have themselves admitted that non-verification followed by ad-hoc recommendations were being made by the Councillors in the entire Najafgarh Zone. There is no reason to believe that other Zones are not affected by the same malady.
34. The loss to the public exchequer can be significant considering the total amounts being disbursed for old age pension by the Corporations in over 270 Wards on an average of 650

pensioners per ward @ Rs. 1000/- per month. These approx. work out to Rs.210.00 Crores annually.

35. It is respectfully submitted that there is urgent need for implementation of these reforms for the welfare of the downtrodden and deserving, ignoring the retrograde resolution passed by the SDMC, stemming out of political considerations.
36. The Registry shall take steps to forward the Report, under Sec. 12(2) of the Act, to the Hon'ble Lt. Governor.

  
(JUSTICE MANMOHAN SARIN)  
LOKAYUKTA

DATE 7<sup>th</sup> OCTOBER, 2013

HEMANT