

BEFORE THE HON'BLE LOKAYUKTA  
Justice Manmohan Sarin  
Complaint No. C-596/Lok/2010

Lokayukta on its own Motion

In Re:- Inquiry u/s 7 read with section 2 (b) of the

Delhi Lokayukta and Upalokayukta Act, 1995

AND

Ms. Preeti Behn .... Original Informant

Vs.

Sh. Harsharan Singh Balli, MLA .... Respondent

1. Sh. Viraj R. Datar and Mr. Chetan Lokur, Advocates, Amicus Curiae.
2. Sh. Harsharan Singh Balli, Respondent.
3. Sh. Ajay Arora, Standing Counsel SDMC.

ORDER

1. The present inquiry is one of many inquiries initiated on the basis of information supplied by Ms. Preeti Behn, Municipal Councillor, regarding unauthorized construction and violation of Municipal bye-laws in properties owned or in occupation of 61 "Public Functionaries" i.e. Councillors, MLAs and Ministers.

These enquiries were a sequel to an inquiry initiated against Ms. Preeti Behn herself, wherein she had been issued a notice regarding unauthorized construction in Jhilmil Colony, Shahdara, Delhi. She complained of being singled out, while 61 "public functionaries" continued to enjoy the benefit of unauthorized constructions, in violation of Municipal Bye-laws and even encroachment on public land, in some cases.

2. Based on the information provided by Ms. Preeti Behn, status reports were called for, from the Municipal Authorities in respect of properties details of which were furnished by Ms. Preeti Behn. Pursuant to the status reports received, inquiries against several "public functionaries" were initiated, including the one in the instant case.

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3.(i) Pursuant to the inputs and status reports received from South Delhi Municipal Corporation (SDMC), Show Cause Notice dated 07.01.2011 under section 7 read with section 2 (b) of the Delhi Lokayukta and Upalokayukta Act 1995 (hereinafter referred to as the 'Act'), was issued to the Respondent MLA Sh. Harsharan Singh Balli, in respect of property No. 7/13, Subhash Nagar, Delhi directing the Respondent MLA to show cause as to why the proceedings under the said Act be not initiated against him in respect of property No. 71/3, Subhash Nagar, Delhi, where construction had been carried out on ground floor to third floor, without sanctioned building plan and for projections on the municipal land.

4. Respondent MLA appeared in response to the notice received and submitted that his father late Dr. Malik Singh Vohra was the owner of the said premise and after the death of his father Dr. Malik Singh Vohra, other legal heirs had executed Relinquishment Deed in his favour. He was asked to submit copies of the Relinquishment Deeds or "No Objection Certificate" from the other LRs and apply for mutation in his favour from L&DO and regularization of the premises. SDMC was also directed to process the application for regularization of the Respondent in accordance with law.

5. It is not necessary to record in detail the proceedings before this forum which went on from 11.3.2011 culminating on 15.10.2013, when order was reserved, except to notice the salient facts.

6. During the proceedings, it was stated by SDMC that the area of the plot was 100 sq. yards with construction on the ground, first and second floor each of 100 sq. yards and 26 sq. yards on the third floor. SDMC informed that the Respondent was required to make available the complete chain of ownership for processing of his application for regularization. However he had only submitted the sale deed by one Iqbal Singh in favour of late Sardar Dr. Malik Singh Vohra, father of the Respondent. Copy of lease deed or any other document in favour of Iqbal Singh was not produced. In the absence of documents of title, chain of ownership was incomplete, the application for regularization could not be considered. Matter was adjourned from time to time to enable the Respondent to apply for mutation with

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the L&DO as well. It was put to SDMC whether they can process the application for regularization conditionally subject to the mutation being granted by the L&DO and factum of ownership being established. Respondent being required to furnish an Indemnity Bond and undertaking to indemnify the Corporation in case of any claim from any of the LR's.

SDMC in its report had vaguely stated that there were some non-compoundable portions without specifying the same. In its report dated 13.05.2013, it was reported by SDMC that there was amalgamation of two properties namely 7/13 Subhash Nagar and 7/14 Subhash Nagar and Respondent was required to separate the same by raising a wall between the two.

7. The matter could not progress due to the indisposition and recuperation of Respondent. Directions were issued from time to time to monitor the progress of regularization. Reference was also invited to the case of Sh. Ramakant Goswami wherein MCD had taken into account Relinquishment Deed Indemnity Bonds while permitting regularization.

8. Position which emerged is that Respondent has approached the L&DO for mutation in his favour of the property which is pending. The second issue is with regard to the amalgamation of two properties. Respondent was required to erect a separating wall between the two properties, to undo the same.

9. Respondent gave his consent for raising a separating wall between the two properties so as to separate and make the two properties distinct. He also undertook to get property mutated from the L&DO in his name by 31<sup>st</sup> December 2014. He further undertook not to change the status of the properties or carry out any further construction, alteration or addition in the property without getting the same sanctioned from SDMC.

10. Ld. Standing Counsel for SDMC, fairly said that inquiry can be disposed of in view of the undertaking given by the Respondent. Accordingly, the Respondent filed affidavit dated 19.9.2013, whereby he reaffirmed his willingness to construct a separating wall between the two properties for which he sought time till the

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completion of Assembly Election for raising the separating wall between the two properties. Second affidavit dated 15.10.2013 RW-1/1 was filed by the Respondent in which he specifically undertook to raise the separating wall between the two properties, thereby removing the amalgamation between the two properties in accordance with the lay out plan after completion of the Assembly Elections. He also undertook to get the mutation of the property done in his favour from the L&DO by 31<sup>st</sup> December, 2014. He further undertook not to change the status of the properties or to carry out any further construction or make addition or alteration in the property without first getting the approval of the Corporation.

11. Statement of Sh. Harsharan Singh Balli, Respondent MLA was also recorded separately in which he stated that he will abide by what has been stated by him in his affidavits dated 19.9.2013 and 15.10.2013. He sought time upto 28<sup>th</sup> February, 2014 for erecting a separating wall between the two properties and removing the amalgamation between the two properties. He also undertook to comply with the structural safety norms while erecting the separating wall between the two properties. He also undertook to abide by the terms and conditions of regularization of the structures and to demolish the non-compoundable portions, if any, in the properties. He also undertook to pay the regularization charges as applicable.

12. From the affidavits filed by the Respondent and statement recorded, it would be seen that the Respondent has undertaken to do the following:-

(i) construct a separating wall between the two properties in accordance with the lay out plan thereby remove amalgamation of properties No. 7/13 Subhash Nagar and 7/14 Subhash Nagar, Delhi by 28<sup>th</sup> February, 2014.

(ii) get the property mutated in his name from the L&DO by 31<sup>st</sup> December 2014.

(iii) to abide by the terms and conditions of regularization including payment of regularization charges and removal of non-compoundable portions.

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(iv) not to carry out ~~any~~ construction or to make any addition or alteration in the property without the permission of Corporation.

In these circumstances, on parity of orders passed in cases of other public functionaries, who gave undertakings to get their structures regularized and comply with municipal Bye-laws and terms and conditions of regularization and also undertook to demolish the non-compoundable portions, notice of inquiry in this case also deserves to be discharged.

Accordingly, in this case also, notice is discharged and the inquiry against the Respondent MLA Harsharan Singh Balli is closed.

13. Before parting, it is made clear that in case at a later stage it is found that the Respondent MLA Sh. Harsharan Singh Balli has failed to comply with any of the undertakings given by him in his statement and/or the affidavits dated 19.9.2013 and 15.10.2013 or he has failed to abide by the terms and conditions of regularization or has failed to get the separating wall erected between the two properties thereby removing the amalgamation by 28<sup>th</sup> February, 2014 or fails to get the property mutated in his name from the L&DO by 31<sup>st</sup> December 2014, the Respondent Corporation will be free to take action against the structures in accordance with law and to get the inquiry proceedings revived before this forum.

  
(Justice Manmohan Sarin)  
Lokayukta, Delhi

Dated 21st October 2013  
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