

BEFORE THE LOKAYUKTA, DELHI
JUSTICE MANMOHAN SARIN
COMPLAINT NO. C-1035/LOK/2011

In Re:-

In the matter of pseudonymous complaint dated 18.9.2011
against Sh. Sat Prakash Rana, MLA

AND

In the matter of inquiry under section 7 (2)(b) of the Delhi
Lokayukta and Upalokayukta Act 1995 on the complaint dated
18.9.2011 against Sh. Sat Prakash Rana, MLA S/o Sh. Ramphal
R/o H. No. 823, Village and Post Office Bijwasan, Delhi,
Respondent

ORDER/REPORT

1. A pseudonymous complaint under the signature of one Beer Singh R/o B-1/1561 Vasant Kunj, Delhi was received levelling allegations against the Respondent MLA. As per the said communication, the allegations were :-
 - (i) Respondent Sat Prakash Rana, MLA has encroached on the Gram Sabha/Govt. land admeasuring about 1000 sq. yards in the revenue estate of village Kishan Garh, Mehrauli at Khasra No. 1249. The said land is located opposite Fortis Hospital, Vasant Kunj, New Delhi. Respondent Sat Prakash Rana has not only encroached upon the said land but has also constructed a huge complex unauthorisedly without any sanctioned building plan.
 - (ii) Respondent has unauthorisedly without any sanctioned building plan constructed another huge complex on encroached government land in the revenue estate of village Samalkha, Delhi. Part of the building was stated to be let out to Bank of Baroda.
 - (iii) Construction of a huge warehouse in the residential area of village Bijwasan and letting out the same to Reebok Company for using the same as their godown.

- (iv) Respondent is constructing a huge building/villa on his agricultural land which is located in village Bijwasan, opposite Bamnoli village.

It was claimed that no action was being taken despite having complained to government agencies and authorities.

2. Another anonymous complaint dated 7.8.2011, in respect of the land in Khasra No. 1249 village Kishan Garh, Mehrauli located opposite Fortis Hospital, Vasant Kunj was received.

3. Cognizance of the allegations in the complaint was taken and Asstt. Director (Investigation) of this office was asked to conduct local enquiry.

- (i) Asstt. Director (Inv.) in his report dated 19.1.2012 reported that Khasra No. 1249 of village Kishan Garh Mehrauli was situated opposite Fortis Hospital, Vasant Kunj, Delhi. Office of Sat Prakash Rana also situated opposite Fortis Hospital was being used for political purposes.

- (ii) Regarding the land at village Samalkha it was confirmed that Bank of Baroda was functioning at Old Delhi Gurgaon Road, Samalkha. Local enquiries revealed that building was rented out to Bank of Baroda and belonged to Sat Prakash Rana.

- (iii) With regard to the godown of Reebok Company, it was reported that warehouse of Reebok Company was functional at the property of Sat Prakash Rana in plot No. 630, Palam Vihar Road, Bijwasan, Delhi.

- (iv) No ongoing construction was reported.

4. Upon receipt of the local enquiry report, notices were directed to be issued under section 11 of the Act to the Deputy Commissioner (Revenue) seeking following information.

- (a) names and addresses of the owners of the properties.
- (b) nature of area, whether residential or commercial.

(c) specific questions such as whether there was any warehouse of Reebok Company on plot No. 630? Whether the Respondent is constructing a villa on agricultural land unauthorisedly in village Samalkha, opposite Bamnoli village? Whether there was any encroachment on the land where the construction was going on? Whether the construction was with approval or without the sanctioned plan? Whether acquisition proceedings were pending against the land? Lease agreements with tenants were also called for.

5. Response and status reports were received from Deputy Commissioner (Revenue). Further clarifications as warranted were sought. SDM Hauz Khas South District, reported that no construction was found on the government land in Kishan Garh Village opposite Fortis Hospital, Vasant Kunj. Besides Khasra No. 1249 of Village Mehrauli was not government land. It was in the name of M/s. Apar Finance and Investment Ltd. Village Mehrauli. It had been urbanized and all the Gram Sabha land stood transferred in the name of DDA. Reports regarding encroachment or unauthorised construction could be obtained from MCD. Lease agreement from Bank of Baroda was also received. It was reported that the land belonged to several persons. 13 biswa of land belonged to Sh. Sat Prakash Rana out of a total of 129 biswa of land. Warehouse was found to be at plot No. 630 Palam Vihar Road, Bijwasan which belonged to Smt. Krishna Rana wife of Sh. Om Prakash Rana, brother of the Respondent. Reebok company had entered into lease agreement with Lalit Rana, son of Sh. Om Prakash Rana and Smt. Sham Kaur, wife of Sh. Ramphal Rana i.e. nephew and mother of Sat Prakash Rana respectively.

No ongoing construction was found in village Samalkha. Complainant was not found residing at the address given in the complaint.

6. It is not necessary to record the subsequent proceedings when further clarification and information was sought in respect of the properties from the Revenue authorities and the MLA himself, especially on whether these properties were situated on private land or Gram Sabha land or Govt. land.
7. In the course of proceedings to assist this forum Sh. Vivek Tandon Advocate, who is well versed in these matters was appointed as an Amicus Curiae. Notice was also issued to the State Election Commission to place on record the declaration filed by Sh. Sat Prakash Rana.
8. During the inquiry it was also reiterated that the properties were situated in the unauthorised colonies which were slated for regularization. The question was whether the plans in respect of these properties could have been sanctioned and construction regularized. What was the extent of compoundable and non-compoundable portions thereof ?
9. At this stage reply filed by the Respondent MLA is also to be noticed. Respondent in his response dated 30.1.2013, submitted that the allegations in complaint were without any substance and that the respondent is a responsible political personality. He had been carrying out his duties and responsibilities with honesty. Action against him was being taken on account of his crusade for removal of encroachments from government land and unauthorized construction. He claimed that due to his efforts 500 acres of land was reclaimed. The present complaint was on account of the wrath and ire incurred by him. He submitted that during his tenure as MLA he has not carried out any construction. User of the properties was covered as per provisions of Master

Plan 2021. He also relied upon the National Capital Territory (Special Provisions) Act 2007, which provides for status quo till December 2014 in respect of the unauthorised construction carried out prior to 2007. He has no concern with property No. 630 Bijwasan which had been purchased by his sister-in-law many years ago. He denied having encroached upon any govt. land or having exploited his political contacts.

10. In his statement recorded on oath, he gave, the factual position in respect of each of the properties as under:-

“Property bearing No. 630 Palam Vihar Road, Bijwasan belongs to his sister-in-law Smt. Krishna Rana. He has no interest or share or right in the said property. She herself had purchased the said property. He lives separately from Smt. Krishna Rana.

With regard to land and premises rented out to Bank of Baroda, he stated that out of the total 129 biswa of land, he owns only 13 biswa of land which was purchased by him through registered sale deed in the year 2003, when he was not a public functionary. He was MLA during 1993-98 and 2008-13. When he purchased the said land, Bank of Baroda was already running in the premises. The said premises is now part of the unauthorised colony bearing registration No. 1132 and is slated for regularization.”

11. Having considered the reports of Deputy Commissioner (Revenue), reply and statement on oath of the Respondent and facts which have come on record, the position which emerges is:-

Shri Sat Prakash Rana denies having any interest or share or right in property No. 630 Palam Vihar Road, Bijwasan. It belongs to his sister-in-law who has been living separately. Hence he cannot be held accountable for the same. Regarding the land in Khasra No. 12/2 i.e. land and premises rented out to Bank of Baroda he owns only 13 biswa of land out of the total land of 129 biswa. This land he had purchased in the year 2003, when he was not a MLA. He was elected

as MLA from 1993 to 1998 and again from 2008 to 2013. He claims that when he had purchased the said land, Bank of Baroda was already functioning there. Now the said land is part of an unauthorised colony bearing registration No. 1132 and is slated for regularization. He has undertaken to get his premises regularized as permissible under the Municipal Bye-laws as and when the regularization starts. He will abide by the terms and conditions of regularization and demolish the portions which are non-compoundable.

12. Considering that the property was acquired by him when he was not a public functionary and further that he has not carried out any construction after his having become the MLA, the question of his having acquired interest in the property situated in an unauthorised colony needs to be considered.

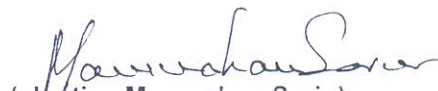
It has to be considered in the background of the Respondent having undertaken to get the construction regularized as permissible under the Municipal Bye-laws within four months from the commencement of process of regularization by the Municipal Corporation, abide by the municipal bye laws and demolish the non-compoundable portion.

13. Regarding property situated at Khasra No. 1249 which was owned by M/S. Apar Finance and Investment Ltd. which is part of unauthorised colony having registration No. 44, his brother had executed a GPA in his favour in the year 2003. Now, with a view to cease the beneficial enjoyment of the same, a family settlement had been entered into and as per the said family settlement the Respondent has transferred his interest in the said land in the name of his brother.

14. From the foregoing narration, it would be seen that no willful violation was committed by the public functionary during his term as MLA. Even with regard to the properties which he had acquired

while he was not a public functionary, he has given undertaking to get the same regularised, abide by Municipal Bye-laws and remove the non-compoundable portion.

15. The Respondent has done whatever was within his powers. He has also relinquished his interest in one of the properties which was a vacant land in Khasra No. 1249, which is located in an unauthorised colony, meaning thereby that he has ceased to be in the beneficial enjoyment of the same.
16. In view of the statement made on oath by the Respondent that he shall comply with the municipal bye-laws and get the unauthorised structures regularized within four months from the date of the start of the process of regularization by the Municipal Corporation and further that he has relinquished his interest in the vacant land falling in unauthorised colony and also that he did not acquire any land or carried out any unauthorised construction during the period when he was a public functionary, notice is discharged taking into account the undertaking and assurance given by the Respondent MLA, which are accepted.
17. In case the Respondent fails to get the unauthorised structures regularised within the period of undertaking given by him, municipal authorities shall be at liberty to take action against such structures as per law. Further in case at a later stage it is found that the Respondent has violated the undertaking given to this forum, the proceedings before this forum will be revived.


(Justice Manmohan Sarin)
Lokayukta, Delhi

17th October, 2013
PKs