

BEFORE THE LOKAYUKTA, DELHI  
JUSTICE MANMOHAN SARIN  
COMPLAINT NO. C-266/LOK/2009

In Re:-

Dr. Harshwardhan ... Complainant  
Vs.  
Smt. Sheila Dikshit, Chief Minister ... Respondent

Present:- Ms. Sunita Bhardwaj, Advocate for Complainant  
Sh. Mehmood Pracha Advocate for Respondent

Ms. Sunita Bhardwaj mentioned the matter which was listed at Sl. No. 5 saying that she has go to High court at 3.30 PM and it may be taken up early. While the matter was being mentioned, Mr. Mehmood Pracha Counsel for the Respondent started interrupting the proceedings saying that his junior has gone to bring his files and if the Counsel for the Complainant has to leave, the matter may be adjourned to another date.

Ms. Sunita Bhardwaj submitted that the Counsel for the Respondent was trying to delay the disposal of the matter in view of the forthcoming elections and that the matter has already been delayed considerably on account of the Counsel for the Respondent. At this Mr. Pracha raised his voice saying that the Counsel for the Complainant was being accommodated and she was pressing for the earlier disposal of the matter in view of the forthcoming elections.

This led to an acrimonious exchange between the Counsels completely disturbing the decorum of the forum.

Mr. Sunita Bhardwaj stated that she had only moved an application for notification dated 4.9.2012 issued by the government regarding the regularization of unauthorised colonies and its effect as subsequent events.

Reply to the above application had been filed and now the respondent was only to make a brief submission. She stated that she does not want to say anything further except that the same game which was played in the year 2008 to woo the voters is being played again to woo the voters for the forthcoming elections in 2013, by issuance of notification.

A simple query was raised enquiring from Counsel for the Respondent as to how much time he would take to conclude his arguments. Upon this Ld. Counsel for the Respondent replied rudely and curtly that "he is not a forecaster and thereafter went on claiming

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that this complaint should have been dismissed when the Complainant was not present. He further said that he has moved an application under section 11 of the Delhi Lokayukta and Uplokayukta Act 1995, seeking dismissal of the complaint.

When I began dictating the order, he again interrupted and said that first of all his application for dismissal of the complaint be taken up and it should be recorded that he had requested for dismissal of the complaint earlier on account of the absence of the Complainant on previous dates of hearing.

This invited a retort from the Counsel for the Complainant. Mr. Pracha then made uncharitable remarks on the functioning of the forum. I was constrained to advise Mr. Pracha to maintain decorum of the forum so that the proceedings can be conducted in an amiable and calm manner. Upon this Mr. Pracha tried to create a scene by saying that videography of the proceedings before this forum should be done so that the happenings can be shown. I have only mentioned this to indicate and record the behaviour of a Counsel who is bent upon stultifying the proceedings before this forum. Moreover when a Counsel happens to represent a highly placed public functionary, it does not give him a licence to take liberties with any forum. Rather representing a highly placed public functionary, should bring about added responsibility for sagacity in his behaviour. Mr. Pracha alleged that indulgence had been shown to the Complainant on two occasions when the Complaint should have been dismissed in the absence of Complainant. These proceedings are in the nature of fact finding enquiry and not akin to a civil lis or criminal proceedings.

In this case arguments on the enquiry were closed on 1.5.2012. Thereafter an application was moved by the Complainant for placing on record notification dated 4.09.2012 and additional facts. Application was returned due to objections and was refiled in December 2012 after removing the objections. Notice was issued to the Respondent for 16.1.2013 for hearing of preliminary objections as well as submissions on merits. Respondent was granted two weeks time to file reply and the matter was fixed for 7.2.2013 for hearing preliminary objections as well as submissions on merits. Thereafter matter was taken up by this forum on 19.2.103 and 25.3.2013. On these dates matter was adjourned at the behest of the Respondent either for filing the reply or for service of the reply upon the Complainant. Arguments on the application were heard and orders were reserved on 29.4.2013. Thereafter Respondent moved an application to file reply on merits to the application which opportunity had been given but was not availed.

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Matter came up before this forum on 13.5.2013, 21.5.2013, 4.7.2013, 26.8.2013 and 19.9.2013, when adjournment was sought on behalf of the Respondent. On 21.5.2013, a plea hasd been raised to cross examine the Complainant, which was declined.

It would be seen that the Counsel for the Respondent has been repeatedly accommodated. The application moved under section 11 of the Delhi Lokayukta and Uplokayukta Act 1995 for dismissal of the complaint would be considered at the time of the passing of the final order.

From the foregoing I am convinced that the Counsel for the Respondent seeks only to stultify the proceedings before this forum on one pretext or the other with repeated adjournments.

Taking into account the outburst and conduct of the Counsel for the Respondent today, it is not possible to have oral hearing of this application.

Yet in order to give another opportunity of filing brief submissions on the application 10 days time is granted to the Respondent. In default, application and matter will be decided on the basis of the available record.

Renotify the matter for 11.10.2013 at 2.30 PM for scrutiny.

  
( Justice Manmohan Sarin)

Lokayukta, Delhi

30<sup>th</sup> September, 2013

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