

**BEFORE THE HON'BLE LOKAYUKTA  
JUSTICE MANMOHAN SARIN  
COMPLAINT NO.C-114/LOK/2009**

IN THE MATTER OF:-

INQUIRY UNDER SECTION-7 R/W SECTION 2(b) OF THE DELHI LOKAYUKTA & UPALOKAYUKTA ACT, 1995, INTO THE ALLEGATIONS MADE IN THE PSEUDONYMOUS COMPLAINT DATED 31-01-2009 OF ONE MR. RAVI CHOPRA, ALLEGING MISUSE AND ABUSE OF OFFICIAL POSITION IN GETTING ADVERTISEMENTS BY SHRI PUSHPENDRA SINGH, MEMBER, DELHI COMMISSION FOR MINORITIES, FOR HIS NEWSPAPER 'PANTHAK SAMACHAR' ... RESPONDENT

Represented By:-

1. Mr. Abhijat Bal, Advocate, Amicus Curiae.
2. Ms. Jasmeet Singh & Ms. Kritika, Advocate, Counsel for Respondent.

**ORDER**

1. A pseudonymous Complaint dated 31-01-2009 was made by one Mr. Ravi Chopra and was forwarded by the Directorate of Vigilance, Govt. of NCT of Delhi to this Forum on 23-04-2009.

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2. The substance of the allegations in the complaint was that the Respondent public functionary, a Member of the Delhi Commission for Minorities, had abused and misused his official position and procured advertisements worth crores of rupees for his newspaper 'Panthak Samachar,' published in Gurmukhi.
3. It was alleged that the said newspaper was only printed for the purpose of obtaining the advertisements from the Government departments and furnishing to them required copies thereof. The daily newspaper did not have any regular establishment or office. Respondent himself was designated as the Printer, Publisher and Editor of the newspaper. There was no printing press of the newspaper. Printing was got done by outsourcing it to others.
4. On receipt of the complaint, a preliminary inquiry was commenced, prior to issuance of notice to the

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Respondent. The Directorate of (Information & Publicity), in short "DIP, Govt. of NCT of Delhi" was issued notice to provide information regarding the number of advertisements and value thereof for which orders were placed by various departments of NCT of Delhi.

5. The DIP was also required to disclose if Panthak Samachar newspaper was empanelled with it, its year wise circulation for the period 2004-05 to 2008-09, quantum and value of advertisements placed on the said newspaper by the Govt. of NCT and its various departments for the period 2004-05 to 2008-09. Based on the information received from various departments, DIP was asked to collate the same.
6. During the preliminary inquiry, it was found that the number of advertisements placed in 'Panthak Samachar' from Government Departments were as under:-

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- a) Year 2006-07      125
- b) Year 2007-08      202
- c) Year 2008-09      206

The circulation of the newspaper also varied from 25,604 to 36,429. The value of advertisements given to Panthak Samachar during these years was as under:-

- a) Year 2006-07      Rs.4,59,103-00
- b) Year 2007-08      Rs.7,51,259-00
- c) Year 2008-09      Rs. 30, 86,154-00.

7. Respondent, Pushpendra Singh had assumed Office as a public functionary in the year 2007. There appears to be an upsurge and manifold increase in the advertisement revenue after his becoming a public functionary and during his tenure of three years.

8. The Lokayukta in terms of Sec. 13(2)(ii) of the Delhi Lokayukta & Upalokayukta Act, 1995, had appointed

Investigators to enquire into the allegations made in the complaint against the Respondent, specifically with regard to the Office establishment, constitution, printing, distribution, circulation and readership of the newspaper 'Panthak Samachar'. The Investigators after due enquiries submitted an initial interim report, followed by a final report. The Investigators had visited the Printing Press, made enquiries and learnt that only 4000-5000 copies were printed. The Investigators had visited the Directorate of (I&P), as also the Registrar of Newspapers, Circulation Office of Panthak Samachar. The Investigators reported that despite visiting Railway Stations, ISBT, Gurudwaras, Khalsa College and localities where Sikhs and Punjabis mostly live, they were unable to find a single person, who subscribed to Panthak Samachar. There was only one Peon in the Office of the newspaper. There were no signs of a functional office.

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9. Notice was issued to Respondent and copies of the interim and final report of the Investigators were made available to him. Respondent filed his reply, refuting the allegations made and maintained that the circulations claimed by his newspaper in the annual returns were correct.
10. The Investigators were duly cross examined by the Respondent's Counsel. Detailed proceedings were held where the Respondent was asked to substantiate his claim for the printing, publication and circulation of around 35000 copies per day of the newspaper 'Panthak Samachar', with availability of skeleton staff and infrastructure. Books of Account, documents showing purchase of newsprint, order and payments to the printing press, etc. were scrutinized.

Respondent, except his bald statement, did not lead any documentary evidence regarding existence and particulars of vendors/distributors who were

engaged in the circulation and distribution of the printed newspapers except saying that they used to collect the newspaper from the printing press directly after making payment.

11. After evidence was led by the Respondent and cross examination of his witnesses by Amicus Curiae, the matter was ripe for hearing of arguments. It was at this stage that the Forum was informed of the untimely demise of the Respondent. Accordingly, the inquiry proceedings as against the Respondent stand abated. This Forum is therefore restraining from returning any finding on the allegations against the Respondent. However, a nagging question that had been staring at this Forum all along was the claim of publication of the newspaper to the extent of 36000-40000 copies every day without any supporting staff or establishment and distribution network.

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12. The Amicus Curiae, Mr. Abhijat Bal, was asked to submit suggestions for purposes of Section 16 of the Act, if any, for improvement in the procedure for empanelment of newspapers/journals/magazines for release of government advertisements, decision making process and verification of circulation claimed, which is the basis for the release of substantial amount of government advertisements. Counsel for the Respondent did not submit any suggestions.

13. The critical factor is to ascertain the genuineness of the circulation data/figures so that government advertisements are placed only in genuine and deserving newspapers for attaining the objectives of government advertisement policy and encouragement of regional and vernacular publications.

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SUGGESTIONS FOR IMPROVEMENT UNDER  
SECTION 16 OF THE DELHI LOKAYUKTA AND  
UPALOKAYUKTA ACT 1995

14. Before making suggestions for improvement, it is necessary to note the existing policy of audit of circulation data/figures for grant of government advertisements.

BACKGROUND

The Registrar of Newspapers (RNI) for India issued an order dated 9<sup>th</sup> July 2007 whereby it was made necessary for all newspapers seeking government advertisements to get their circulation data/figures certified by private external auditors empanelled with RNI. This order was challenged by the Indian Languages Newspapers Association as being ultra vires the provisions of Press and Registration of Books Act, 1867 in so far as it permitted chartered accountants, who are not gazetted officers authorized by the Press Registrar, to access information relating to the newspapers. The Delhi High Court in **President,**

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Indian Languages Newspapers Association v. The Registrar of Newspapers for India, Ministry of Information and Broadcasting MANU/ DE/ 3931 /2010 held that Section 19F of the Press and Registration of Books Act, 1867 does not permit any private party to be authorized by the Press Registrar to carry out inspection of newspapers.

As a consequence of the judgment, RNI audits circulation data by its own officers, but it does so only for those newspapers/journals whose circulation was more than 75000 per day.

As per the New Advertisement Policy (2007) issued by the Directorate of Advertising and Visual Publicity (DAVP), Clause 14 provides for furnishing by the newspaper/magazine/journal of authenticated figures of circulation by Audit Bureau of Circulation, Cost Accountant, Statutory Auditor and Chartered Accountant, as per criteria given below:-

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- i) Up to 25000 per day - Cost/Chartered

Accountant, Statutory Auditor Certificate in the

prescribed proforma or ABC (Audit Bureau of Circulation) Certificate.

ii) 25000-75000 per day - For Companies, Statutory Auditor Certificate in prescribed proforma, and ABC Certificate.

For individuals, Chartered Accountant Certificate in prescribed proforma / ABC Certificate.

iii) Above 75000 per day - ABC or RNI (Registrar of Newspapers) Certificate.

It would be seen from the above that the requirement of ABC/RNI certificate verifying circulation exists only for newspapers/journals/magazines with circulation of over 75000 per day.

Clause 17 further provides that there will be no circulation check for newspapers/journals with circulation upto 25000 by DAVP through its representatives or through RNI.

## SUGGESTIONS

The Amicus Curiae had recommended that to avoid allegations of misuse or abuse of power, no government advertisement should be given to newspapers /magazines/journals in which a public functionary or his member of family has interest, till the public functionary hold office.

In my view, a blanket ban proposed as above would be discriminatory and a harsh measure and may not even stand judicial scrutiny.

(a) With a view to ensuring adherence to the norms of integrity and conduct expected of public functionaries, it may be provided that where a public functionary is the Editor, Printer, Publisher or otherwise has substantial interest in the newspaper/journal/magazine, then that newspaper must get its circulation figures verified by RNI before being empanelled by DAVP.

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(b) Further, RNI should be entitled to verify circulation claimed even if the number of copies is less than 25000 per day and to carry out necessary inspection.

15. One of the objectives in placing advertisements in vernacular and other small/medium size newspapers/magazines/journals is to encourage and support their effort for publication in regional languages and to publicize government programmes. This inquiry revealed that some of the departments who had placed orders for advertisements either directly or through DIP had not even seen the newspaper in question. Such incidents must be avoided so that government advertisements are placed only in genuine and deserving newspapers for attaining the objectives of government advertisement policy.

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16. Before granting empanelment to newspapers /magazines /journals, especially, when published in vernacular and those catering to a limited segment and/or where a public functionary has interest in the publication, a Committee of Officers should be constituted to ascertain its eligibility for empanelment and verification of circulation claimed.

The Committee of Officers to, inter alia, examine and verify circulation claims made; verify distribution where the publication claims circulation; make enquiries from Institutions, if any, to which the newspaper/magazine/journal claims supply of its publication; and visit the printing press and the office of such newspaper/magazine/journal to ascertain the genuineness of the claim of printing, sales and circulation.

17. The above recommendations / suggestions are being made without prejudice to one another and in

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addition to the prevalent guidelines of the Directorate of Advertising and Visual Publicity (DAVP).

18. Due to the demise of the Respondent, the inquiry proceedings as against the Respondent stand abated. This Order does not contain any finding on the allegations against the respondent. This Order contains suggestions in terms of Sec. 16 of the Delhi Lokayukta & Upalokayukta Act, 1995, for improvement in procedure and practice for empanelment for placement of government advertisements in vernacular and other newspapers/journals /magazines.

A copy of the Order containing suggestions be sent to the Hon'ble Lt. Governor for consideration.

  
**(JUSTICE MANMOHAN SARIN)**  
**LOKAYUKTA**

DELHI

DATE: 23<sup>rd</sup> OCTOBER 2013

HEMANT/AJITESH