

**BEFORE THE HON'BLE LOKAYUKTA
JUSTICE MANMOHAN SARIN
COMPLAINT NO. C-2134/LOK/2013**

IN THE MATTER OF:

Inquiry under Section 2 (b) read with Section 7 of the Delhi Lokayukta and Upalokayukta Act, 1995 into the allegations against Public Functionary, for contravention of the provisions of Delhi Prevention of Defacement of Public Property Act, 2007.

AND

IN THE MATTER OF:

S.K. Saxena, Director Nishpaksh, NGO
New Delhi.

..... Informant

AND

Col. Shiv Raj, R/o 210, Munirka Vihar,
New Delhi – 110067

.... Intervenor

Vs.

Ms. Sheila Dikshit, Chief Minister &
Sh. Ramakant Goswami, Minister of
GNCTD

.... Respondents

Present:-

1. Sh. S.K. Saxena, Informant
2. Col. Shivraj Kumar, Intervenor
3. Mr. Shikhar Garg for Ms. Sheila Dikshit, CM, Respondent No. 1.

On 25th Oct. 2013, Counsel for Respondent No.2, Shri R.N. Vats, made the following statement on behalf of Shri Ramakant Goswami, Respondent No.2:-

"My client has not posted the alleged posters/hoardings and it was not posted with his knowledge or consent. He will not post any such poster in future also".

Considering that in connected matters, the statements made by the Respondents were comprehensive and covered other aspects also, which were not covered in the statement made by the Counsel, the following four questions were posed to the Counsel on which he was asked to obtain instructions:-

- (i) What is the position of your client if his attention is drawn to certain poster/hoarding etc. put up at public places in violation of provisions of Delhi Prevention of Defacement of Public Property Act, 2007?
- (ii) Would the Respondent give instructions to his followers/supporters that posters/hoardings carrying his photographs should be put at designated places and not at public places?
- (iii) Would the Respondent initiate any action for removal of posters/hoardings etc. in violation of provisions of Delhi Prevention of Defacement of Public Property Act, 2007?
- (iv) Whether the Respondent would support any initiative for 'Poster/hoardings Free Delhi'?"

Ms. Zubeda Begum, Advocate for Ms. Sheila Dikshit had also sought further time to respond.

On 28.10.2013, Sh. R.N. Vats, Advocate on behalf of Respondent No. 2 Sh. Ramakant Goswami, Minister of Transport gave the following response to the questions raised:-

- (i) My client Sh. Ramakant Goswami does not approve of putting up of posters/hoardings etc. at public places in violation of the

provisions of Delhi Prevention of Defacement of Public Property Act, 2007.

- (ii) Yes, Sh. Ramakant Goswami would certainly give instructions to his followers and supporters to put up posters/hoardings etc. carrying his photographs only at the designated places and not at public places.
- (iii) In case any posters/hoardings/banners are posted at a public place in violation of the provisions of Delhi Prevention of Defacement of Public Property Act, 2007, my client Sh. Ramakant Goswami would request his supporters and followers to remove the same and would also request the authorities to take necessary action, if it is brought to his notice.
- (iv) Yes, Sh. Ramakant Goswami would certainly support initiative for "Posters/Hoardings Free Delhi".

In view of the statement made by the Counsel Sh. R.N. Vats on behalf of Sh. Ramakant Goswami, I consider it appropriate to accept the said statement and as consequence there for, the notice issued to him stands discharged. Sh. Ramakant Goswami, Respondent No. 2 would ensure that any such posters/hoardings/banners which is in contravention of the Act, containing his photographs, steps are taken for its removal and if the same is not done, the Authorities would be free to do so. The name of Sh. Ramakant Goswami, Respondent No. 2 in view of the matter is, deleted from the array of Respondents. The Intervenor and Amicus Curiae support the same, while the Informant of course has a view that such matters should be taken to its logical conclusion.

As regards Ms. Sheila Dikshit, Chief Minister, Respondent No.1 herein, reply had been filed on her behalf on 23-08-2013 and affidavit by way of evidence has been filed on 28-10-2013. Respondent No.1

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has raised several objections beginning from questioning the motive of the Informant/Intervenor in initiating these proceedings, as being part of a political strategy by rival political parties. Further, she questions the maintainability of these proceedings on the ground that neither a case under the provisions of the Lokayukta Act nor under the Delhi Prevention of Defacement of Public Property Act is made out. It is claimed that the Respondent's photograph is synonymous with development and progress of the State and the Respondent having led her party to three consecutive victories, this stature is used by people to promote themselves. It is claimed that her photographs being in public domain are easily accessible to and used by public at large.

The objections raised on the maintainability and the application of the provisions of Lokayukta Act and Delhi Prevention of Defacement of Public Property Act will be dealt with at the appropriate stage.

The Informant/Complainant and the Intervenor refuted the suggestions of this being a politically motivated action and said that the information given regarding contravention of the provisions of Delhi Prevention of Defacement of Public Property Act, is across party lines and covers the entire spectrum of political functionaries belonging to different political parties.

While it is the right of every party to raise all the legal and other pleas available on merit, there appears to be some misconception on the part of the Respondent No.1, in appreciating the questions involved in these proceedings. The question in these proceedings is the exhibition of photographs in posters/hoardings/banners in contravention of the provisions of Delhi Prevention of Defacement of

Public Property Act, by their being put at places other than the designated places.

I must also notice that in this entire batch of complaint cases, the Respondent No.1, Chief Minister, Ms. Sheila Dikshit, is the only one who has not recorded her statement that "she agrees to advise her followers and supporters to put up posters/hoardings/banners at the designated places only and not to put them in contravention of Delhi Prevention of Defacement of Public Property Act. Further, if it is brought to her notice that infringing posters/hoardings/banners have been put, they will initiate action for their removal".

In all the other cases, including in the present one, her cabinet colleague Shri Ramakant Goswami, has made a similar statement, as a result of which this Forum has accepted the said statement and discharged the notice binding them to the statement and closed the inquiry.

As noted earlier, the proceedings now shall proceed with the name of Shri Ramakant Goswami, deleted from the Complaint. As regards the answering Respondent, Ms. Sheila Dikshit, by filing an affidavit that the said posters/hoardings/banners carrying her photographs have not been put up with her consent or knowledge, she has discharged the initial burden under Sub-section (2) of Section-3 of the Act.

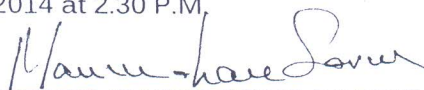
In these circumstances, the case is fixed for cross examination of the Complainant/Informant and thereafter the Respondent can be cross examined on her affidavit and the inquiry be proceeded further with the parties being given opportunity to urge their legal pleas and decision taken thereon.

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The above procedure for inquiry, as per the Amicus Curiae, meets the requirements of natural justice, under Sec. 10 of the Act.. There is no other suggestion forthcoming either from the Informant/Intervenor or Counsel for Respondent.

At a later stage, Ms. Zubeda Begum, Sr. Advocate, for Ms. Sheila Dikshit, CM, Respondent No. 1, also appears. She has been apprised of the order including the procedure for the inquiry under Section-10 of the Delhi Lokayukta and Upalokâyukta Act, 1995, and the next date fixed.

Re-notify the matter on 28.01.2014 at 2.30 P.M.


(JUSTICE MANMOHAN SARIN)
LOKAYUKTA

DATED: 01-11-2013