

**BEFORE HON'BLE LOKAYUKTA
JUSTICE REVA KHETRAPAL
COMPLAINT NO. C-1806/LOK/2012**

IN THE MATTER OF:

Inquiry under Sec.7 read with Sec. 2 (b) of the Delhi Lokayukta & Upalokayukta Act, 1995.

Complaint reg. illegal unauthorized construction and encroachment on Government land –

Shri Subhash.

-----Complainant

Versus

Shri Ravinder Singh @ Kaploo, Nephew of Sitting MLA, Shri Tarvinder Singh Marwah.

-----Respondent

And

Inquiry into the conduct and involvement of sitting MLA, Shri Tarvinder Singh Marwah

-----Respondent

PRESENT:

1. Shri Monu Chadha (Complainant in connected Case No. C-2001 /Lok/13)
2. Shri G.S. Oberoi, Advocate, Counsel for the respondent No.2
Shri Tarvinder Singh Marwah.
2. Shri Santosh Prasad Chaurasiya, Advocate, Counsel for L&DO.
3. Shri Praveen Kumar, JE (Building), Central Zone, South Delhi
Municipal Corporation.

ORDER

1. The present complaint, received in this office on 08-10-2012, is filed by one Shri Subhash, resident of House No.9, Summan Bazar Lane, Bhogal, New Delhi, alleging illegal construction and encroachment on public land by one Shri Ravinder Singh @ Kaplu, nephew of the then sitting MLA, Shri Tarvinder Singh Marwah, at the corner of property bearing No. 2/57, Jangpura-A, New Delhi 110014.
2. It is alleged in the complaint that twenty flats have been constructed in the aforesaid property after encroaching upon public land by Shri Ravinder Singh @Kaplu, but the police as well as the concerned MCD officials have not taken any stern action against the aforesaid illegal construction till date. Photographs of the under construction works are enclosed with the complaint. The concerned Junior Engineer of the area is stated to be taking bribe for giving opportunity to Shri Ravinder Singh @ Kaplu to illegally construct flats on public land and sell the said flats on false and fabricated documents.
3. On receipt of the aforesaid complaint, an enquiry was initiated by sending a letter to the complainant calling upon him to furnish better particulars. The complainant was also contacted on his mobile number as mentioned in the complaint by the

then Assistant Director (Investigation). The latter was told by the complainant that he had not sent any complaint to any office and that his address was also mentioned incorrectly, as he was residing in House No.8, Bazar Lane, Bhogal.

4. The Assistant Director (Investigation) also visited the area for a local enquiry and found that a four storey building had been constructed by joining four different properties bearing Numbers 2/54, 55, 56 and 57. A report was also sought from the Deputy Commissioner, South Delhi Municipal Corporation, which stated that three properties belonged to Shri Kaplu, namely, Property No.2/53, 2/55 and 2/56 and two to Shri H.R. Arora, namely Property No. 2/57 and 2/58, and that all the four properties had been booked for action for demolition under Section 343/344 and sealing under Section 345A of the DMC Act, 1957, on 28-09-2012. Necessary orders of demolition and sealing had been passed in respect of the properties belonging to Shri Kaplu and sealing orders were yet to be passed for the property of Shri Arora. Show Cause Notices to Shri Kaplu and Shri Arora had been issued as there was no sanctioned plan in respect of the aforesaid properties.
5. The Assistant Director (Investigation) in his report dated 20-12-2012 concluded as follows:-

"As per enquiry and report of SDMC, nothing in particular has come against Shri Tarvinder Singh Marwah, MLA and action has been initiated by the concerned authority against the properties. Report is submitted for perusal please".

6. On going through the report sought for from the Deputy Commissioner, South Delhi Municipal Corporation on 27-11-2012 (submitted on 14-12-2012) and the report of the Assistant Director (Investigation) dated 20-12-2012, the then Officer on Special Duty to the Hon'ble Lokayukta (Hon'ble Mr. Justice Manmohan Sarin) in his note dated 21-12-2012 concluded as under:-

"The complaint does not mention involvement of "Public Functionary" as defined in the Delhi Lokayukta & Uplokayukta Act. Allegations are against a nephew of Shri Marwah, who is sitting MLA and not against him, nor does the complainant allege any misuse or abuse of position by the "Public Functionary".

The U/C (unauthorized construction) has already been booked by the SDMC and demolition and sealing action qua the properties mentioned in the complaint have already been initiated.

The field enquiry by AD(I) does not show any involvement of Shri Marwah in these activities. Hence, no material for initiating enquiry under Section-7 of the Delhi Lokayukta and Uplokakyukta Act against Shri Tarvinder Singh Marwah, MLA, has come on record. The complaint is also pseudonymous, so no assistance can be taken from the complainant/informant".

7. By an order dated 01-01-2013, my learned predecessor (Hon'ble Mr. Justice Manmohan Sarin), while recording that the complainant had been informed on 19-10-2012 regarding the complaint having been forwarded to the Corporation for necessary action and had thereupon "maintained eerie silence on being contacted", observed as under:-

"It is absolutely essential that in such cases a clear message is sent by the Corporation by swift and tangible action that the rigours of law is not only for the common citizen but also applies to those who may be occupying the high echelons of power. The SDMC in consultation with the DC is directed to submit a concrete plan of action proposed to be taken for demolition of structures and the time frame within which the same is to be implemented be also specified returnable on 1st February 2013 at 2.30 P.M."

8. By a subsequent order dated 01-02-2013, it was directed that the names and addresses of the owners who had carried out the aforesaid constructions and/or builders as well as the names and address of the occupants, if any, of these structures be made available to this Forum.
9. In compliance with the aforesaid order, a report was filed by the Office of the Central Zone, South Delhi Municipal Corporation, along with photographs reflecting the action taken, whereby the third and fourth floor and in some cases, the second floor (walls and kitchen portion) had been demolished. It was also submitted in the said report that as regards the names and addresses of the owners of the properties in question, the case had been referred to the House Tax Department for placing the facts/details before the Hon'ble Lokayukta.
10. On 19-02-2013 it was directed by my learned predecessor that the Corporation would inform this Forum of ***"documents or evidence which comes to its knowledge regarding the involvement of Shri Ravinder Singh @ Kaplu and/or Shri Tarvinder Singh Marwah, MLA"***. It was further directed that regarding the unauthorized construction on third and fourth floors of the properties in question, the Corporation would

carry out its demolition programme in accordance with law. It was also recorded that the Corporation was in the process of compiling the list of occupiers/owners and issuing notices to various owners/occupiers of Buildings No. 2/55, 2/56, 2/57 and 2/58.

11. Thereafter through a series of orders, my learned predecessor gave directions for demolition of the unauthorized portions of the properties concerned. A specific direction was also issued to the Deputy Land & Development Officer vide order dated 23-10-2013 to place on record the Site Plan clearly indicating the area allotted and the encroached portion.
12. The aforesaid direction was ultimately complied with on 04-07-2016 by the Land and Development Officer by filing before this Forum a rough sketch showing the encroachment and another rough sketch of the building after demolition.
13. On the same date, i.e. 04-07-2016, a direction was issued by this Forum to the Deputy Commissioner, SDMC, for filing action taken report in respect of premises No. 2/53, 55, 56, 57 and 58, Jangpura-A, New Delhi.
14. Today, an action taken report has been filed in compliance of the order dated 04-07-2016, which is taken on record and the

complainant has expressed his satisfaction with the action taken by the Corporation.

15. Since in the entire course of investigation no allegation(s) against the respondent MLA has/have surfaced, despite the same having been sought for repeatedly from the complainant and the Corporation, no notice to show cause can be issued to him. As a matter of fact, the complaint itself is significantly devoid of any allegation against the Respondent.
16. Accordingly, nothing further survives to be considered in the present complaint. The complaint is, therefore, disposed of taking on record the action taken report filed by the South Delhi Municipal Corporation.
17. The file be consigned to the Record Room.

Dated: 01-09-2016

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(JUSTICE REVA KHETRAPAL)
LOKAYUKTA, DELHI