

BEFORE THE HON'BLE LOKAYUKTA
JUSTICE REVA KHETRAPAL
COMPLAINT NO. C-1738/LOK/12

IN THE MATTER OF:

SHRI RAJESH GARG COMPLAINANT
VERSUS
SHRI JAI BHAGWAN AGGARWAL, MLA RESPONDENT

PRESENT:

1. None for the Complainant.
2. Shri Jai Bhagwan Aggarwal, respondent in person.
3. Shri Parvesh Kumar, Tehsildar from the Office of SDM (Saraswati Vihar).

ORDER

1. The above mentioned complaint is filed by one Shri Rajesh Garg, son of Shri Madan Lal Garg, praying that appropriate action be initiated against the 'Public Functionary' Shri Jai Bhagwan Aggarwal, Member Legislative Assembly and all other persons who have connived with him.
2. The allegation in the present complaint is that Shri Jai Bhagwan Aggarwal, who is a Member of the Legislative Assembly, had used the temple premises situated in Pocket-A3, Sector-7, Rohini, Delhi, for his political activities, particularly during the Legislative Assembly election in the year 2008.

3. It is further alleged that the respondent Shri Jai Bhagwan Aggarwal has violated the law and particularly the Religious Institutions (Prevention of Misuse) Act, 1988, (Act No. 41 of 1988), which is an Act to prevent misuse of religious institutions. Section-3 of the said Act provides that no political activities can be propagated or promoted for the furtherance of the aims or objects of a political party or by a person seeking election to Parliament, in State Legislature or any local authority for political and other purposes, from a religious institution.
4. Furthermore, it is alleged that the respondent has also violated the Model Code of Conduct for the guidance of the political parties and candidates issued by the Election Commission of India. It is asserted that inspite of accepting that such activities are illegal, the Election Commission, the Delhi Police and other law enforcing agencies have not taken any action against the respondent, who being a three time MLA was able to influence the officials of the local administration.
5. In order to substantiate the aforesaid allegation, the complainant has attached with the complaint a photograph of the temple premises in which the respondent Shri Jai Bhagwan Aggarwal was allegedly carrying on political activities.



6. A preliminary statement of the complainant was recorded on 16-10-2012 and on the basis of the same, notice was issued to the respondent to show cause as to why enquiry in terms of Section-7 read with Section 2(1)(b) of the Delhi Lokayukta & Uplokayukta Act, 1995, be not initiated against him.
7. On 22-11-2012, a reply was filed on behalf of the respondent denying the allegations made in the complaint. A rejoinder thereto was filed by the complainant on 25-02-2013. On the same date, i.e. on 25-02-2013, the complainant was directed by this Forum to file his affidavit by way of evidence. The complainant's affidavit by way of evidence was filed on 17-05-2013, which was taken on record as Exhibit CW-1/1 vide order dated 17-05-2013.
8. Subsequently, on 24-07-2013, the SDM (Saraswati Vihar) was directed to produce the Khatauni in respect of Khasra No. 184 (0-13), Village Naharpur, Delhi, as it came to light that in the said Khatauni the land was shown in the name of Panchayat Mahajan, whereas in the Naksha Muntasim produced by the Naib Tehsildar from the office of ADM (North West) before the Forum on 24th July 2013, the land was in the name of Gram Sabha.



9. On 19-08-2013 the statement of Shri Rishi Kumar, Tehsildar, Saraswati Vihar, was recorded who placed on record the Khatauni Register for the year 1990-91 in respect of Khasra No. 184(0-13), Village Naharpur, wherein the change of ownership to Panchayat Mahajanana was shown in compliance of the Order of the Court dated 19-05-1985 passed by Shri S.C. Gupta, Sub Judge, 2nd Class, Delhi, in Case No. 57/RA/78.
10. In my considered opinion, however, ownership of land – whether owned by Panchayat Mahajanana or not – is not the issue in the present complaint. The only issue which arises for consideration is whether the respondent Shri Jai Bhagwan Aggarwal, who was a 'Public Functionary' in terms of Section 2(m) of the Delhi Lokayukta & Uplokayukta Act, 1995, has violated the provisions of the Religious Institutions (Prevention of Misuse) Act, 1988 and the Model Code of Conduct during the election in the year 2008 by using the temple in Sector-7 Pocket-3A, Rohini, to propagate political activities.
11. The respondent in his reply has categorically denied the aforesaid allegations levelled against him in the complaint, and submitted that the provisions of Religious Institutions (Prevention of Misuse) Act, 1988 are not attracted in the present case, as the space which was temporarily used by him, for the period 10-11-2008 to 13-11-2008, for which rent of Rs.

11,000/- (Rupees Eleven Thousand Only) was paid by him, was not being used as the "Mandir", but belonged to Yatri Niwas/Office of the Dharam Shala. It is also categorically denied by him that the attached photograph with the complaint is of the temple premises only situated at Pocket-A3 of Section-7, Rohini, Delhi. It is submitted that the property referred to as "Mandir" in the complaint is comprised in Khasra No.184 Village Naharpur, Sector-7, Rohini, and it is not only a Mandir owned, possessed and managed by Panchayat Mahajanan Village Naharpur, but also consists of an old well, a piao, a dharamshala, yatri niwas, mandir, conference hall, manager's room of Panchayat Mahajanan and several hundred years' old trees, etc. since time immemorial.

12. The respondent further submits that the above facts are also borne out from the Report dated 03-08-2009 of the Local Commissioner appointed by this Forum in another complaint filed by this very complainant Shri Rajesh Garg, bearing Complaint No. C-183/Lok/2009.

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13. According to the respondent, the permanent office of the respondent is situated at A-3/89, Sector-7, Rohini which is adjacent to the said mandir and dharam shala. The respondent used the yatri niwas/conference hall of the

