BEFORE THE HON'BLE LOKAYUKTA
JUSTICE REVA KHETRAPAL
COMPLAINT NO.C-1975/LOK/2013

IN THE MATTER OF:

SHRI AJAY KUMAR SHARMA -- COMPLAINANT

VERSUS

SHRI SANJAY JAIN, MUNICIPAL COUNCILLOR -- RESPONDENT

PRESENT: NONE

ORDER

1. The present complaint has been filed on 23-04-2013 by one Shri Ajay Kumar Sharma alleging that Shri Sanjay Jain, Municipal Councillor, Ward No. 252, has misused the Councillor's Fund by spending around Rs. 20.00 Lacs in putting up sign boards in his name during his tenure from the year 2007 to 2012. The complainant claims that he obtained the aforesaid information by exercising his right under the Right to Information Act, 2005.

2. Notice of the complaint was issued to the East Delhi Municipal Corporation by this Forum, calling for a report as to how much money had been spent for installation of signboards in Ward No.252, which either contained the name of the respondent or propagated the works done by him.

3. In compliance with the aforesaid notice issued to the East Delhi Municipal Corporation, the Executive Engineer-M-IV-Shahdara (North) Zone submitted a Report/Reply regarding the complaint filed against the respondent, wherein it was submitted that the works which have been shown in the list of development works in Ward No.252 were the works pertaining to the providing and fixing of street name boards in different lanes of Ward No.252 and not for writing the name of the Municipal Councillor only. However, it is stated, the name of the Councillor was written in the lower most line of the board after mentioning the details of house numbers and street of the colony just to facilitate the residents/commuters to know as to who was the Councillor of the area. It was further submitted that the area of Shahdara North Zone consists of a number of unauthorized regularized colonies, which have been developed in a haphazard manner and not as planned colonies, due to which there was confusion amongst the residents and commuters who wanted to know the name of the Councillor of a particular lane/area, as the boundaries of the Ward were also haphazard. Accordingly, street name boards were fixed by mentioning the name of the area Councillor after details of lanes and house numbers of the area. The photographs of such

boards fixed in different lanes were enclosed along with the Reply.

4. On receipt of the aforesaid Reply, the Chief Engineer, Shahdara North Zone, was directed to file his affidavit specifying whether there were any guidelines or policy directives regarding incurring of expenses out of the Councillor's Fund on items such as signboards where the name of the Councillor appears and the ceiling, if any, on the number of boards that can be fixed and the total number of such boards which have been fixed in the constituency of the Councillor. It was further directed that in his affidavit the Chief Engineer would also state whether it was standard practice throughout the Corporation to fix the signboards giving the house number and name of street in the manner as has been done in this case with the name of the Councillor being mentioned therein.

5. In compliance with the aforesaid directions, on 22-08-2013 an affidavit was filed by Shri Anshuj Dhingra, Standing Counsel, EDMC, of the Chief Engineer, East Delhi Municipal Corporation, wherein it was stated that the Councillor's Fund was being utilized for development and improvement work of infrastructure facilities like roads, drains, parks, community halls, sanitary units, schools, including works of providing and fixing street name boards. It was further stated that there

were no guidelines nor was there any policy for utilization of the said funds, but as a practice, the said funds were utilized for public works undertaken at the behest of the concerned Councillor. There was, however, no ceiling fixed for the amount to be spent for any particular work being executed under Councillor's Fund or on items such as signboards, etc. There was also no ceiling on the number of boards that could be fixed out of the Councillor's Fund. It was further stated that as a practice street signage boards were fixed at various locations for the guidance of the public about the area, name of the street, house numbers etc. which were situated in that particular street/lane throughout the constituency. Sometimes the names of the concerned Councillor, and sometimes the name of the MLA/MP concerned, were also written on the board for the public to know about their elected representatives. Sometimes the name of the Councillor was specifically mentioned on the sign boards to indicate his place of residence within the locality. For the information of this Forum some of the photographs of such signboards were enclosed with the affidavit.

6. On the same date, i.e. 22-08-2013, the statement of the complainant Shri Ajay Kumar Sharma was recorded wherein he stated that the boards in the constituency had been re-painted

subsequent to the last date of hearing, i.e. 18-07-2013, with the information regarding house numbers of the gali, the name of the work, etc. He stated that earlier these boards only carried the inscription that the development of the street was on account of the untiring efforts of the Councillor. It was only after the proceedings in this Forum that an attempt had been made to turn the said boards, which were for the benefit of the Councillor alone, to sign boards. In the course of his cross examination, the complainant, however, admitted that he had not placed on record the photographs of the changed boards but stated that he could do so by the next date.

7. Subsequently, on 13-09-2013, the complainant tendered an affidavit stating therein that before 18-07-2013, the name of the Councillor was written in big and bold letters in the middle of the signboards, but the signboards were repainted on the night of 18-07-2013, and the Councillor's name in the said boards was now written at the bottom. Six photographs of street signboards were enclosed with the affidavit of the complainant.

8. Notice to show cause was issued to the respondent with a view to obtain his version and in particular to address the allegation of putting up signboards which primarily focused on

the Councillor's name and address, while other particulars like name of the street, etc. were relegated to a secondary position.

9. In the reply filed by the respondent, the respondent categorically stated that the fixing/providing of boards in the area was to facilitate the residents and commuters in the area to know about the street etc. and not for writing the respondent's name only. It was further submitted that the area of Shahdara North Zone was heavily congested and mainly consisted of unauthorized regularized colonies, which had not been developed in a planned manner, and as the boundaries of the municipal wards were also demarcated in a haphazard manner, it was very difficult to know from where the area of a particular ward started and where it ended. Thus, it was quite necessary to mention the name of the area Councillor on different street name boards to enable the residents and commuters to identify the land/area under a Municipal Councillor, so that he could be easily approached without any confusion. Insofar as the matter of the boards having the name of the respondent was concerned, it was submitted that due to the unplanned development of the colony falling within Ward No.252, it was not possible to reach

the office or the residence of the respondent directly until proper boards were fixed in the area.

10. On 25-04-2016, on perusal of the records, it was felt by this Forum that lack of guidelines / policy directives, as stated in the affidavit filed on 22-08-2013 of the Chief Engineer, Shahdara North Zone, East DMC, for utilization of Councillor's fund defeats the very purpose of creation of such funds and was counterproductive to the proper utilization of the same. Accordingly, notice was directed to be issued to the Chief Engineer, Shahdara North Zone, East DMC to appear in person with all records in relation to creation of Councillor's funds, guidelines, circulars and directives pertaining to the said funds, including the resolution(s) passed in the House in respect thereof.

11. On 25-05-2016, the Chief Engineer, Shahdara North Zone, EDMC appeared in person with all records in respect of creation of Councillor's fund, guidelines, circulars, etc. pertaining to the said fund, including the resolutions passed in this regard by the House. On the basis of records produced by him, the Chief Engineer confirmed that there are no guidelines, notifications, circulars or directives pertaining to the utilization of Councillor's fund, but stated that as a practice, the fund was utilized for public works undertaken at

the instance of the concerned Councillor. Further that there is no ceiling fixed for the amount to be spent for any particular work to be executed from the Councillor's fund or on items such as signboards, etc. He further explained that while passing budget the House sanctions the total amount to be spent by the Councillor under different heads such as development works, electrical works, sanitation, etc. and expenditure on putting up signboards was included in the total amount to be spent by the Councillor on development and other works. No prior sanction was required from the Corporation and all that was required of the Councillor was to send a requisition for the concerned work, and thereafter the sanction was automatically granted in accordance with the estimate prepared as per guidelines laid down in the CPWD Manual and Departmental instructions. He further informed that the exact figure sanctioned for the year 2007 was probably Rs. 50.00 lacs, but the exact amount would be available with the Chief Accountant-Cum-Financial Advisor, North DMC. Accordingly, notice was issued to the Chief Accountant-Cum-Financial Advisor, North DMC, for 19-08-2016 to appear in person with records pertaining to the sanction of Councillor's funds from the year 2007 onwards and the guidelines, if any, in this regard.

12. In response to the notice issued for 19-08-2016, a statement was received from the Deputy Controller of Accounts (Engineering & DEMS), North DMC, dated 05-08-2016 giving therein the year-wise allocation of funds to the Municipal Councillors from 2007 to 2012, as per which Rs. 70.00 lacs were allocated to each Councillor in 2007-08, Rs. 200.00 lacs in 2008-09 and Rs. 50.00 lacs each in 2009-10, 2010-11 & 2011-12 respectively.

13. Since on the said date, i.e. on 19-08-2016, there was no appearance on behalf of the parties, hence, to afford one more opportunity to the complainant to put forth his submissions in the light of the affidavits and other material placed on record by the East Delhi Municipal Corporation in relation to the allocation of Councillor's fund and expenditure to be made out of the Councillor's fund/s, the matter was adjourned to 07-09-2016.

14. On 07-09-2016 again there was no appearance on behalf of the complainant. As a matter of fact, the complainant never appeared before this Forum after 26-11-2013 and apparently is no longer interested in prosecuting the present complaint. Thus, being cognizant of the futility of protracting the proceedings which would serve no useful purpose, this Forum

intends to dispose of the present complaint on the basis of material available on record.

15. Reverting back to the allegations raised by the complainant in his complaint, the same mainly revolve around alleged misuse of funds by the respondent Councillor in putting up signboards in the locality with his name written in bold letters. The main grouse of the complainant in the present complaint is that earlier these boards only carried the inscription that *"the development of the street was on account of the untiring efforts of the Councillor"* and it was only after the commencement of proceedings in this Forum that an attempt was made to turn the said boards, which were solely for the benefit of the Councillor alone, into sign boards by re-painting them mentioning other details such as street number, house numbers, etc. Again, as per the allegation of the complainant, an amount of about Rs. 20.00 lacs were spent out of the Councillor's fund merely for eulogizing the name of the respondent Councillor, which was tantamount to misuse of the said fund meant for development of the area.

16. No cogent evidence has, however, been brought on record by the complainant to substantiate his aforesaid allegation of misuse of funds by the respondent Councillor with a view to propagate his own name in the area/locality. On the contrary,

the information furnished by the Deputy Controller of Accounts (Engineering & DEMS) vide his letter dated 05-08-2016 specifically mentions that the allocation of funds had been made to each Councillor from the years 2007-08 to 2011-2012 by the concerned Department, and further, the said works had been executed only after due approval from the Competent Authority.

17. Further, a perusal of the Affidavit filed on 22-08-2013 of the Chief Engineer, Shahdara North Zone, East Delhi Municipal Corporation, reveals that the Councillor's Fund was being utilized for development and improvement of infrastructure facilities like roads, drains, parks, community halls, sanitary units, schools, including works of providing and fixing street name boards; that there were no guidelines nor was there any policy for utilization of the said funds, but that as a practice the said funds were utilized for public works undertaken at the instance of the concerned Councillor. There was also no ceiling fixed for the amount to be spent for any particular work being executed under Councillor's Fund or on items such as signboards, etc. Further, there was no ceiling on the number of boards that could be fixed out of the Councillor's Fund; that as a practice street signage boards were fixed at various locations for the guidance of the public about the area, name of the

street, house numbers etc. which were situated in that particular street/lane throughout the constituency. Sometimes the name of the concerned Councillor, and sometimes the name of the MLA/MP concerned, was also written on the board for the public to know about their elected representatives. Sometimes the name of the Councillor was specifically mentioned on the sign boards to indicate his place of residence within the locality.

18. In view of the aforesaid affidavits filed and information gathered from the Competent Authority, in the considered opinion of this Forum, in the absence of any guidelines or policy directives for the utilization of the Councillor's fund, and also in the absence of any ceiling fixed for the amount to be spent for any particular work being executed by the Councillor from the said fund or on items such as signboards, etc. or on the number of boards that could be fixed out of the Councillor's Fund, the complainant's allegation that the respondent Councillor for his self glorification had incurred expenditure from the government exchequer, cannot be sustained. Moreover, in the absence of any guidelines or policy on the subject in question, it cannot be even held that the alleged act of the respondent Councillor was in aberration of any such established policy or practice, more so as the

signboards are stated to be fixed for the convenience of the public at large and are part and parcel of the development work undertaken by the Councillor.

19. In the light of the above facts and circumstances of the case, no allegation as defined in Sec. 2 (b) (ii) & (iii) of the Delhi Lokayukta & Uplokayukta Act, 1995, is made out against the respondent Councillor. The show cause notice issued vide order dated 13-09-2013 to the respondent Councillor under Sec.7 read with Sec. 2(b) of the Act is resultantly discharged. The complaint stands disposed of.

20. File be consigned to the Record Room.

Reva Khetrapal

Date: 07-09- 2016
(JUSTICE REVA KHETRAPAL)
LOKAYUKTA, DELHI

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