

PUBLIC GRIEVANCES COMMISSION
(Govt. of NCT of Delhi)
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Order under Para 2(B) of the PGC Resolution No F.4/14/94-AR dated 25.9.97

Grievance No.PGC/2018/Anne.II/Rev./17

Date of hearing: 28.03.2019

Complainant : Sh. Sunil Kumar - Present.

Respondent : District Magistrate (South West), GNCTD
Through Shri Puneet Kulshrestha,
Tehsildar(Dwarka)

D.C.(Najafgarh Zone), South DMC,
Through Sh. Lekh Raj,
Asstt.Assessor & Collector (Najafgarh Zone)
Sh. Vinod Kumar, H/C – Present.

1. Brief facts of the case.

1.1 Shri Sunil Kumar filed a complaint in PGC on 28.11.2018 for not issuing mutation of 1/6th share of Khatoni 133/326 min – 122/86 min situated in revenue estate of Village Matiala by the Revenue Department, South West District, GNCTD.

2. Facts emerged during the proceedings.

2.1 Tehsildar(Dwarka), Revenue Department, GNCTD who is present during the proceedings today, reiterated the legal position as on the last date of hearing, that the Hon'ble High Court in WP(C) No.4143/2003 in the matter titled Smt. Indu Khorana Vs. Gaon Sabha has held that "***once the rural area is urbanized by issuance of a Notification under Section 507(a) of the Delhi Municipal Corporation Act, 1957 the provisions of the DLR Act will cease to apply.***" Village Matiala, Delhi, is an urbanized area. He further stated that senior advocate in File No.96484739 have opined that "***as per section 1 of DLR***

Act, 1954, mutation applies to the areas to which DLR Act, 1954 applies. If DLR Act, 1954 ceases to apply, Delhi Land Revenue Act, 1954 also ceases to apply once DLR Act came to an end by virtue of issuing notification under section 507 of DMC Act, 1957. Since there will no bhumidar or asami under the DLR Act in urbanized areas, therefore, there is no need for doing mutation. Conclusion is that mutation is no more necessary under the Delhi Land Revenue Act, 1954 which also ceased to apply. Since there will be no use for agriculture purpose and DLR Act shall cease to apply therefore Khasra Girdawaries are no more required to be issued or filled in.”

2.2 Tehsildar(Dwarka), O/o. DM(SW), also filed a copy of the Circular dated 3.7.2013 issued by Divisional Commissioner (Revenue), GNCTD relating to the issue of applicability of Section 81 of the Delhi Land Reforms Act, 1954 with respect to certain kinds of lands. Vide Cabinet decision No.2032 dated 15.6.2013, the Cabinet has considered and approval the proposal as contained in Para 14 of the Cabinet note which is reproduced below:-

“14) In view of the submissions made above and taking into consideration observations made by Hon’ble Courts in various judgments as cited above, the Cabinet has considered the following proposal:

- 1) *The provisions of the DLR Act, 1954 shall not apply to:*
 - i. *An area which is urbanized by way of notification under Section 507 of the DMC Act, 1957 and*
 - ii. *Areas falling within the boundaries of unauthorized regularized colonies.*
 - iii. *Buildings in respect of which building plans have been sanctioned by Competent Authority or permission granted under amendment of Master Plan.*
 - iv. *House sites allotted under 20 Point Programme or in Extended Abadi as under DLR Act*
 - v. *Improvement as per provisions of Section 3(12) of DLR, 1954*

- 2) *The main focus of enforcement of DLR Act provisions shall be to prevent unauthorized colonization of agriculture land. All Dy.Commissioners, Revenue Assistants, Revenue Officers/officials shall take stringent action as per the provision of DLR Act to check the menace of colonization in a time-bound manner and failure to do so on the part of any revenue official will be treated seriously.”*

2.3 An ATR has also been filed on behalf of Jt.Assessor & Collector, Najafgarh Zone, South Delhi Municipal Corporation stating that as per provision of Section 128 of DMC Act, 1957 & prescribed guidelines of procedure for the mutation of property in A&C Department, MCD, the mutation in the municipal record is for the purpose of payment of Property Tax only and it does not mean a legal title in the name of the person in whose name the property has been mutated in the municipal records.

It was further conveyed that SDM (Najafgarh) had also sought clarification from SDMC vide letter dated 27.2.2018 that after the notification under Section 507 of DMC Act, whether SDM Court is competent to sanction the mutation or not. In this regard, A&C Department, NGZ, has conveyed the following opinion/view of the Asstt.Law Officer(HQ), Law Department, SDMC to SDM/RA (Najafgarh) vide office letter dated 18.5.2018:-

“The mutation undertaken by A&C Department is only for maintaining Property Tax purpose. Any other mutation is not being undertaken by SDMC or that there is no provision under the DMC Act to undertake mutation other than mutation done for Property Tax purpose.”

2.4 The complainant, in support of his contention, filed copy of the mutation order dated 23.2.2018 done in respect of one Shri Mahavir Singh (expired on 6.1.2018) Khata No.266, Village Bawana, Distt.(North), Revenue Department, GNCTD. Further, he confirmed that necessary records have been provided to him by Tehsildar(Dwarka).

3. Directions:

3.1 Keeping in view the legal position given by Tehsildar(Dwarka), O/o.District Magistrate(SW), Revenue Department and Jt.Assessor & Collector, Nafafgarh Zone, SDMC, the case of the complainant is closed in PGC. However, District Magistrate(North), Revenue Department, GNCTD, is advised to verify whether the mutation in respect of late Sh. Mahavir Singh, Khata No.266 (copy of mutation enclosed), as claimed by the complainant, is in accordance with the legal position in view of the instructions of Divisional Commissioner, GNCTD and after the judgment of the Hon'ble High Court in the matter of Smt. Indu Khorana Vs. Gaon Sabha (copy enclosed). After verification, DM(North),

GNCTD may intimate the decision to the complainant as well as to District Magistrate(SW), GNCTD for taking further course of action as per law under intimation to the Commission.

(ASHOK KUMAR)
CHAIRMAN (PGC)

No.PGC/2018/Anne.II/Rev./17

Date:

Copy to:-

1. Sh. Rahul Singh, District Magistrate (South West), Revenue Department, Govt. of NCT of Delhi, Old Terminal Tax Building, Kapashera, New Delhi.
2. Ms. Tanvi Garg, District Magistrate(North), Revenue Department, Govt. of NCT of Delhi, DM Office Complex, BDO Block, Alipur, Delhi-110 036.
3. Sh. Ajay Aggarwal, D.C.(Najafgarh Zone), South DMC, Tilak Nagar Road, Near Water Tank, IInd Floor, Najafgarh, New Delhi-110043.
4. Sh. Arun Kumar Jha, SDM (Dwarka), Revenue Department, Govt. of NCT of Delhi, Sector-10 (Near Dwarka Courts), Dwarka, New Delhi.
5. Sh. Puneet Kulshrestha, Tehsildar(Dwarka), Revenue Department, Govt. of NCT of Delhi, Sector-10 (Near Dwarka Courts), Dwarka, New Delhi.
6. Sh. Sunil Kumar.