

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**

Date of hearing: 03rd Oct., 2019

Complainant : Sh. Satinder Kumar Dhawan,
Respondent : Deputy Commissioner (Karol Bagh Zone), North DMC,
Grievance No. : PGC/2014/MCD/1617

1. Brief facts of the complaint

Sh. Satinder Kumar Dhawan has filed a grievance in PGC on 12.05.2014 for removal of unauthorized and illegal construction at House No. 60, Block-N, First Floor (Double Storey Quarters), West Patel Nagar, New Delhi.

2. Proceedings in the Public Grievances Commission

The PGC has convened twenty eight hearings so far in the matter and in the hearing held on 03.10.2019, the following are present:

Complainant : Present
Respondent : Sh. Kumar Mahendroo, EE(B)
Sh. Anil Kumar, AE(B)/KBZ
Sh. Mohd. Salim Arif, JLO/Vig.

3. Relevant facts emerging during the hearing

3.1 Sh. Kumar Mahendroo, EE(B), Karol Bagh Zone is present in the hearing and submitted a Status Report from the Asst. Engineer (B), Karol Bagh Zone stating that "the property, in question, i.e. N-60, Double Storey, West Patel Nagar, Delhi falls in 'C' type tenements which is a double storey quarter allotted by the L&DO wherein only Ground Floor and First

Floor had been constructed as per the Standard Building Plan whereas, Second Floor, Third Floor and Fourth Floor had been constructed unauthorisedly in subsequent passage of time.

The North DMC had initiated action against the unauthorized construction in the shape of Third Floor with projection on Municipal Land in this property under section 343 and 344 of DMC Act 1957 vide file no. B/UC/KBZ/2012/10 dated 20.01.2012 and the demolition order was passed on 01.02.2012.

Demolition action was taken upon the aforementioned property on 24.03.2012 with the assistance of Police Force from PS West Patel Nagar wherein the slab of Third Floor had been partly demolished.

The North DMC has initiated action against the unauthorized construction in the shape of room, kitchen, bathroom at Second Floor and Fourth Floor in this property under section 343 and 344 of DMC Act 1957 vide file no. B/UC/KBZ/2013/320 dated 05.07.2013. The said notice was served by pasting at site on 09.07.2013. It is submitted that the hearing in respect of the said show cause notice was attended by Sh. Mahesh Gupta and Sh. Anil Grover (Husband of Indu Grover). Thereafter, the demolition order in respect of the said unauthorized construction in the shape of room, kitchen, bathroom at Second Floor and Fourth Floor in this property was passed vide no. B/UC/KBZ/2013/320 dated 22.08.2013.

The North DMC had also initiated sealing action against the unauthorized construction in the shape of Third floor with projection on Municipal land and unauthorized construction in the shape of room, kitchen, bathroom at Second Floor to Fourth Floor in this property under section 345-A of DMC Act. It is submitted that a show cause notice to this effect was issued and served upon the owner/builder of the property vide no. D/EE(B)/KBZ/2013/8169 dated 17.10.2013. It is submitted that since no reply to the said show cause notice was received, the sealing order in respect of aforesaid unauthorized construction

has also been passed vide no. S/B/KBZ/2013/127 dated 18.11.2013 and executed on 27.12.2013.

Another demolition action was taken upon the aforementioned property on 27.12.2013 with the assistance of Police Force from PS West Patel Nagar. In the said action the roof slab of Fourth Floor was demolished and thereafter the Fourth Floor was sealed. Subsequent demolition action was taken on 03.05.2016 wherein the roof slab of Fourth Floor was demolished and reinforcement was cut.

The property, in question, falls in 'C' type tenements which had been allotted by L&DO. There are 2512 units in West Patel Nagar out of 11086 total units all over Delhi. The matter is pending adjudication before Hon'ble Supreme Court of India regarding the punitive action against the permanent and semi-permanent structures upon valuable Public/Government land in flagrant violation of Standard Building Plan. The Hon'ble Monitoring Committee had already directed the L&DO & concerned Municipal bodies for taking action against the violations. The L&DO had carried out a survey in respect of these 'C' type tenements and had filed the affidavits before the Hon'ble Supreme Court of India. The Supreme Court of India vide order dated 06.12.2018 as, inter alia, directed as under :-

"It is further stated in the report that despite notice of violations in four colonies mentioned above, steps have not been taken by the L&DO to seal the tenements in compliance with the directions given by this Court on 02.11.2018. The L&DO is directed to take steps to seal the tenements that are either being misused from residential to commercial use or having encroachments and unauthorized constructions in terms of the completion prepared by the L&DO."

That pursuant to the direction of Hon'ble Supreme Court of India, the Hon'ble Monitoring Committee had convened a meeting on 04.02.2018 and directed the L&DO and concerned Municipal bodies to expedite the action against the violations in 'C' type

tenements pursuant to the directions of Hon'ble Supreme Court of India vide order dated 06.12.2018.

Accordingly, the North DMC has already started the action in coordination with L&DO against the violations in 'C' type tenements in a phased manner and in the action taken on 05.02.2018 & 06.02.2018, 29 units had been sealed in Motia Khan and the show cause notices are being issued to the owners/occupiers of 'C' type tenements. Approximately 200 nos. of show cause notices had already been issued to the owners / occupiers of 'C' type tenements in West Patel Nagar including the property, in question.

The owners of the property have filed two appeals titled as Indu Grover Vs North DMC (209/18) and Mahesh Gupta Vs North DMC (210/18) against the demolition orders passed by North DMC. The ATMCD has vide order dated 19.07.2018, directed as under :- *In the meantime both the parties i.e. appellant and respondents shall maintain status quo regarding the property, in question i.e. property bearing no. N-60, Second Floor, West Patel Nagar, New Delhi. This order is subject to any other order passed by the Hon'ble High Court or Hon'ble Supreme Court in respect of the property, in question.*

In Grievance No. PGC/2014/MCD/1617, the aforesaid facts were brought to the notice of the PGC. The PGC had vide order dated 04.06.2019 directed the North DMC to take action in pursuance of the direction of Supreme Court and Monitoring Committee jointly with L&DO and submit an action taken report against unauthorized construction in property no. N-60, Second Floor, West Patel Nagar, New Delhi and the matter has been adjourned for 02.07.2019.

The South Delhi Municipal Corporation had taken up the matter of sealing of 'C' type tenements spread all over Delhi falling under the jurisdiction of South DMC, North DMC and East DMC vide their communication no. D/963/EE(B)-I/DC/CNZ/2019 dated 06.03.2019. The L&DO vide its response bearing no.

EO/MISC/2018/340 dated 24.06.2019 had communicated to the SDMC that the 'C' – type tenements enjoy protection under the National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 as amended from time to time. The provisions of National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 hold good upto 31.12.2020.”

3.2 Sh. Mohammad Salim Arif, JLO, Vigilance Department is present in the hearing and submitted a Status Report from Sh. Jaipal, Asstt. Commissioner (Vig.) stating that

“consequent upon findings of the investigation carried out in respect of unauthorized construction carried out in property no. 60, Block 'N', First Floor, Double Storey Quarters, West Patel Nagar, Delhi, the Competent Authority vide orders dated 04.07.2019 has ordered for disengagement of the service of Sh. Arun Yadav S/o Sh. Risal Yadav, JE who worked on contract basis in Div. EE (M)-II, Keshav Puram Zone.

Besides above, the Competent Authority i.e. Commissioner, North DMC has ordered for initiation of RDA for major penalty against Sh. Rohit Roshan, JE(B) and Sh. Mukesh Kain, JE(B). The RDA file in respect of delinquent officials has been received in Legal Cell, Vigilance Department on 23.08.2019. The matter is under process for initiating disciplinary proceedings as envisaged under Regulation 8 of the DMC Services (Control & Appeal) Regulations, 1959. The disciplinary proceedings against the delinquent officials shall be processed in due course of time as per due process of law.”

4. Recommendations of the PGC

4.1 Sh. Jai Pal, Asstt. Commissioner (vig.), North DMC is advised to take further necessary action in the matter, as per rules.

4.2 As the action in the matter has been taken by the Building Department, the case stands closed at the level of PGC.

(ASHOK KUMAR)
CHAIRMAN

No. PGC/2014/MCD/1617/

Dated :

Copy to:

1. Sh. Kumar Mahendroo, Ex. Engineer (B), Karol Bagh Zone, North DMC, Near Khalsa College, Anand Parvat, New Delhi – 110005
2. Shri Jaipal, Asstt. Commissioner (Vig.), North DMC, 26th Floor, Civil Centre, New Delhi
3. Sh. Satinder Kumar Dhawan