

PUBLIC GRIEVANCES COMMISSION
(Govt. of NCT of Delhi)
M-Block, Vikas Bhawan, IP Estate, New Delhi – 110110
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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: 16.12.2020

Complainant : Sh. Manish Rawat.
Respondent : Deputy Commissioner (West Zone), SDMC
Grievance No. : PGC/2019/MCD/06

1. Brief facts of the complaint

Sh. Manish Rawat has filed a grievance in PGC regarding unauthorized and illegal construction at 2 places at Ashok Hari Marg, Village Titar Pur, WZ-97 & WZ-97/1 and taking action against the MCD officials who have not taken any action and given misleading information.

2. Proceedings in the Public Grievances Commission

The PGC has convened twelve hearings in the matter so far and in the hearing held on 16.12.2020, the following are present:

Complainant : Absent
Respondent : Sh. B.B.Agrawal,
Sh. Rahul Ahuja. AE(M)
Sh. Anil Kumar, AE

3. Relevant facts that emerged during the hearing :

3.1 The complainant had filed complaint alleging illegal and unauthorized construction in property Nos. WZ-97 and WZ-97/1, Titar Pur. In the past hearings based on reports filed by West Zone, SDMC it revealed that property No. WZ-97/1, Titar Pur was booked on 06.11.2015 for unauthorized construction at 2nd and 3rd floor. Ground and first floor were old and occupied. The matter

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went to ATMCD in Appeal No. 1114/2015 and the case was remanded. Again an order dated 08.02.2018 was issued confirming construction of 2nd and 3rd floor as unauthorized and the same was to be demolished. The property owner filed application for regularization on 15.03.2018 but the regularization application was rejected. A demolition action was undertaken on 14.06.2018 in which RCC roof was punctured and chajja at 3rd floor was demolished and cut by gas cutter. On 25.02.2019 demolition action was undertaken during which 2 RCC roof slab panels, at 3rd floor were demolished. Demolition charges of Rs. 10575/- were also demanded from the owner / occupier vide letter dated 27.02.2019. A vacation notice u/s 349 of DMC Act was issued and addressed to SHO, P.S. Rajouri Garden. A demolition action was fixed for 17.06.2019, during which 2 RCC roof slab panels and walls were demolished at the terrace of 3rd floor. 2nd floor was not vacated and hence no action could be undertaken. Show cause notice was addressed to the owner / occupier of the property vide letter dated 16.07.2019 and further action u/s 345 of DMC Act was initiated. A sealing action was undertaken on 04.09.2019, in which one room at 2nd floor was sealed but rest of the property could not be sealed as the property was occupied. In suit Numbers 1687/19 and 1685/19 vide order dated 07.12.2019 the Hon'ble Court directed to maintain status quo in respect of impugned property.

Regarding WZ-97, Titar Pur it was reported that in this property there exists a temple. Some construction activity was carried out by the temple committee in the compound / premises of the temple from sometime in 2016-17. No booking of the property was found in record. The matter related to religious committee. However, action against the property u/s 343/ 344 (1) of DMC Act was initiated in respect of unauthorized construction on GF to Third floor. Sealing order in respect of this property was passed. Sealing action was fixed for 06.12.2019 but the sealing action

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could not be undertaken as ground floor was found locked and there was no way of going to the other floors of the property. Also there was gathering of mob / political leaders, who objected for taking action against the religious place / temple. Sealing action on 22.06.2020 and 21.07.2020 could not be undertaken due to non availability of police force and heavy rains. Again a demolition / sealing programme was fixed 02.12.2020. Police force was made available but due to apprehension of huge public resistance, the police authority refused to provide support for taking demolition / sealing action. The police authorities informed that as the issue involves action against a temple, the matter may be referred to Religious Committee and in future, the police assistance will be made available only on the directions of the Religious Committee.

Letters were also addressed to discom and DJB for disconnection of electricity and water connection, vide letter dated 27.08.2019. The Sub Registrar was informed not to register these properties for any sale / purchase.

The property occupants of WZ-97/1 submitted a representation dated 11.11.2019 stating that they are the owner and in possession of shops / residential premises in the property. The plot is of 350 sq. Yrds. and they are having registered sale deeds and transfer documents. In the past the plot was an agricultural land and permission was sought from Revenue Department to execute sale deed, vide application dated 24.04.2001 and the permission was granted on 22.05.2001. The property was mutated in their favour by the municipal corporation. Trade license / license for retail shops etc. were also obtained. It was alleged that complainant had filed litigation in District Court, which was dismissed but the municipal corporation without verifying the facts is taking hasty and uncalled for action, on the basis of false and frivolous complaints.

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From the documents available in the grievance case file it is evident that Sh. Neeraj Rawat, purportedly brother of the complainant filed a suit number 46/15. This was decided on 04.04.2016. The plaint was rejected. The plaintiff had sought remedy of injunction against the property bearing No. WZ-97/1 and WZ-97 alleging illegal construction and encroachment on public land. The Hon'ble Court decided that no civil right of the plaintiff was affected and in the garb of injunction, the plaintiff cannot bring up public interest litigation. This was upheld by the Court of ADJ, West in his order dated 20.02.2019.

With regard to issue of unauthorized encroachment by jhuggi dwellers in Khasra No. 30/1, Village Titar Pur it is observed that this matter was not part of the original grievance from the complainant. However, in the matter there were directions by the Hon'ble High Court directing the Deputy Commissioner, West Zone to pass a speaking order in the matter. The speaking order was passed by Dy. Commissioner, West Zone and issued on 10.08.2020 by which the claim of the occupants / petitioners for entitlement of a relief was not found acceptable. Against this order, an appeal was filed by the occupants before the Hon'ble High Court seeking allotment of alternative plot in lieu of their jhuggis. The Hon'ble Court directed that the petition be treated as further representation of the petitioners to the SDMC. The SDMC was directed to grant hearing to the petitioners, before taking final decision. Till then, no coercive action was to be taken against the petitioners. The petitioners appeared before the Deputy Commissioner, West Zone on 28.12.2020 and 05.01.2021, with all relevant documents, in support of their contention. On hearing the petitioners and going through the documents submitted by them, the Deputy Commissioner, West Zone reserved her right to pass an order, in the matter. However, the Deputy Commissioner, West Zone who took the hearing has been transferred from West Zone and the order could not be passed by her. Now the matter is

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put up before the incumbent Deputy Commissioner, West Zone for further compliance. This matter is already under judicial scrutiny of the Hon'ble High Court of Delhi and the orders of the Hon'ble Court are to be complied with by Deputy Commissioner, West Zone. No intervention can be done in this matter by Public Grievances Commission.

4. Recommendations of the PGC

In respect of property No. WZ-97, the police authorities have advised to refer the matter of illegal construction / encroachment in this property to Religious Committee as the property is a temple. The police authorities have categorically stated that police assistance will be provided only on the directions of the Religious Committee as there is an apprehension of huge public resistance in respect of action in the temple. As such, the West Zone SDMC shall refer the matter of this property to the Religious Committee, for any further action.

In respect of property No. WZ-97/1 the municipal corporation undertook repeated demolition / sealing action but now in suit Nos. 1685/19 and 1687/19 there are the directions by the Hon'ble Court to maintain status quo. The matter is sub-judice and as such, this Commission cannot intervene any further. The West Zone, SDMC is advised to diligently pursue and plead the matter in the Hon'ble Court and take necessary action, as per directions of the Hon'ble Court.

Accordingly, the matter stands closed at the level of the Commission.

(SUDHIR YADAV)
MEMBER

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No.PGC/2019/MCD/06/

Dated :

To:

1. Deputy Commissioner, West Zone, SDMC, Dr. Saheb Singh Bhawan, Near West Gate Mall, Vishal Enclave, Near Rajouri Garden Police Station, Delhi – 110027.
2. Superintending Engineer, West Zone, SDMC, Dr. Saheb Singh Bhawan, Near West Gate Mall, Vishal Enclave, Near Rajouri Garden Police Station, New Delhi – 110027.
3. Ex. Engineer (B)-I, West Zone, SDMC, Dr. Saheb Singh Bhawan, Near West Gate Mall, Vishal Enclave, Near Rajouri Garden Police Station, New Delhi – 110027.
4. Ex. Engineer (M)-I, West Zone, Opp. Madhav Park, Rajouri Garden, New Delhi - 110027

Copy for information to :

Shri Manish Rawat

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