



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: 15th March, 2022

Complainant : Sh. Vikram Singh Pradhan
Respondent : Deputy Commissioner
(Shahdara North Zone),
Grievance No. : PGC/2021/MCD/10

1. Brief facts of the complaint

Shri Vikram Singh Pradhan has filed a grievance in PGC regarding illegal / unauthorized construction violating the bye laws by the builder / owner named Sh. Mahender Singh, S/o Sh. Jaswant Singh property bearing plot No. 1450, East Jyoti Nagar, Durga Puri Chowk, Shahadara, Delhi.

2. Proceedings in the Public Grievances Commission

The PGC has convened five hearings in the matter and in the hearing held on 15.03.2022 the following are present:

Complainant : Absent
Respondent : Sh. Deepak Goel, E.E.(B)
Sh. Kaptan Singh, A.E.(B)
Sh. Alok Kumar, J.E.(B)
Shahadara North Zone

3. Relevant facts emerging during the hearing

3.1 In the hearing held on 06.12.2021 the status of land was clarified by the Revenue Department stating that the land is private. It was desired by the Commission that a detailed report in the matter be submitted by the

AE(B) concerned stating that what action is required to be taken against the property under complaint as per the provisions of the DMC Act. The next date of hearing was fixed for 05.01.2022.

3.2 In the hearing held on 05.01.2022, a report dated 03.01.2022 was submitted by the Ex. Engineer (B), Shahadara North Zone stating that :

“That no new construction has been found by the concerned area JE during inspection of above mentioned property on 24.06.2021.

That the running of illegal commercial activities is concerned it is submitted that property No.1450, East Jyoti Nagar, Durgapuri Chowk, shahadara Delhi is a L-Shape plot having one side on Mixed use Street other side on non-notified street. As the requisite Conversion Charges have already been deposited for Mixed use by way of running commercial activities in the small shops on other side located on Non-notified street. The clarification was sought from Town Planning Department, EDMC for permissibility of the same. The Town Planning Department has stated *“that the property u/r falls outside the scheme boundary of the approved layout plan of East Jyoti Nagar, Shahadara, Delhi and therefore the property u/r is not a residential plot and as such the Mixed Use Regulations are not applicable in respect of property u/r”*

That in view of observations of the Town Planning Department, the show cause notices under section 345A of DMC Act, have been issued to the owner / occupier of property No. 1450, East Jyoti Nagar, Durgapuri Chowk, Shahadara Delhi vide No. 228/DC/SH(North)Zone/2021 dated 10.02.2021 for violation of MPD-2021.

That in reply to the show cause notices the owner of the shops in the property submitted that commercial activities in the shops are old and running prior to year 2006 and hence protected under the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011. Accordingly, to ascertain the applicability of the NCTD Laws (Special Provisions) Second Act, 2011 the status of property No. 1450, East Jyoti Nagar, Durgapuri Chowk, Shahadara, Delhi has been sought from Revenue Department vide letter No. EE(B)-II/SH-N/EDMC/2020/D-216

dated 06.10.2020 and reminder vide letter No. EE(B)-II/SH-N/EDMC/2021/D-350 dated 16.02.2021.

That further action shall be taken as per DMC Act, MPD-2021 after receiving the status of land whether public or private from Revenue Department.

That the Revenue Department GNCTD has stated that the property in question seems to be private land with no Govt. land around it.

That in the reply to show cause notices the owner / occupier of the shop in the property submitted that commercial activities in the shops are old and running prior to year 2006 and hence protected under the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011. Accordingly, to ascertain the applicability of the NCTD Laws (Special Provisions) Second Act, 2011 record of the property tax assessment / return of property No. 1450, East Jyoti Nagar, Shahadara, Delhi – 110032 has been sought from Property Tax Department, EDMC, Shahadara (North) Zone vide No. EDMC/AE(B)-I & II/ SH-N/2021/D-479 dated 29.12.2021.

That further action will be taken accordingly.”

3.3 The departmental representatives present in the hearing of the Commission on 05.01.2022 were not able to reply to the queries raised by the Commission regarding applicability of the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011, in the present matter and the Commission took a serious view on the lackadaisical attitude and delaying tactics of the officers concerned. The concerned Deputy Commissioner was advised to depute an officer to attend the Commission on 15.02.2022 who is well conversant with the provisions of the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011.

3.4 On 17.02.2022 EE(B) along with other concerned officers attended the Commission and submitted a status report dated 14.02.2022 wherein it was submitted that “on going through the reply of the show cause notices and verifying the documents submitted by the owner as the evidence to prove the existence of the shops prior to 2006 it has been found that the

shops are old and constructed before year 2006 and hence is protected under the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 till 31st December, 2023.”. Again he was not able to reply the queries of the Commission. Subsequently, the complainant has filed a representation raising certain queries against the stand of the department.

3.5 The matter was again brought to the notice of the Deputy Commissioner concerned through a letter dated 03.03.2022 and the representation of the complainant was forwarded with the directions that the concerned officers may be directed to examine the representation of the complainant and submit their pointwise clarification on the same. The concerned Ex. Engineer (B) was also advised to attend the Commission alongwith clarifications on 15.03.2022.

3.6 A report dated 21.03.2022 was submitted by the Ex. Engineer (B) concerned reiterating the stand of the department but no comments on the representation of the complainant was given. Again they were directed to submit pointwise reply to the queries raised by the complainant.

3.7 On 05.04.2022 a fresh report in a tabular form, replying to the queries of the complainant was submitted under the signatures of the Ex. Engineer (B) stating that

“As per NCTD Laws clause 3 subsection 2 subject to the provisions contained in sub-section (1) and notwithstanding any judgement, decree or order of any court, status quo-

(i) As on the 1st date of January, 2006 in respect of encroachment or unauthorized development.

(ii) In respect of unauthorized colonies, village abadi area (including Urban village) and their extensions, which existed on the 31st day of March, 2022 and when construction took place even beyond that date and upto the 1st day of June, 2014) mentioned in sub- section (1);

(iii) In respect of special area as per the Building Regulations for Special Area, Unauthorized Regularized Colonies and Villages Abadis, 2010 and

(iv) In respect of all other areas within the National Capital Territory of Delhi as on 8th day of February, 2007, shall be maintained.

Explanation :- For the purpose of this sub-section it is hereby clarified that any development approved by the competent authority of the local authority under the relevant laws and the rules or regulations made there under, including repairs permissible under the building bye-laws in force, shall continue to remain permitted.

2. All notices issued by any local authority for initiating action against encroachment or unauthorized development in respect of areas referred to in sub-section (1), shall be deemed to have been suspended and no punitive action shall be taken till 31st day of December, 2020 now extended upto 31st December, 2023.”

3.8 Stand of the department through various reports shows that the unauthorized development in the property under complaint is protected under the provisions of the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 till 31st December, 2023.

4. Recommendations of the PGC

Taking cognizance of the various status reports submitted by the department, the matter of instant complaint is referred back to the Deputy Commissioner, Shahadara North Zone with the directions to take further action, if any, as per the provisions of the MPD, 2021 and DMC Act.

With the above directions the matter stands closed at the level of the Commission.

(SUDHIR YADAV)
MEMBER

No. PGC/2021/MCD/10/

Dated:

To:

Deputy Commissioner, Shahadara North Zone, EDMC, Keshav Chowk, Near Welcome Metro Station, Shahadara, Delhi - 110032

Copy for information to :

Sh. Vikram Singh Pradhan