
आज़ादी का
अमृत महोत्सव
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: 21.07.2022

Complainant : Sh. Darshan Singh Popli,
Respondent : Deputy Commissioner
Shahadara South Zone,
Grievance No. : PGC/2019/MCD/03

1. Brief facts of the complaint

Shri Darshan Singh Popli, the complainant had filed a Writ Petition in the Hon'ble High Court of Delhi impleading PGC as Respondent No. 1 and the executing agency i.e. MCD(erstwhile EDMC) as Respondent No. 2. Vide the aforesaid Writ Petition, the petitioner sought the relief *inter-alia*:-

- (1) Directions to Respondent No.1 i.e. PGC to carry out its statutory obligations and decide the grievance of the petitioner by passing speaking order after affording reasonable hearing in the matter in a time bound manner,
- (2) Direct Respondent No.2, i.e. EDMC through its Commissioner to demolish the entire property in terms of demolition orders dated 15.02.1994 & 15.04.1998 passed by Respondent No.2, and
- (3) Directions to Respondent No.2 to register FIR against the culprits including the officials mixed up in the situation.

The said Writ Petition was disposed by the Hon'ble Court of Delhi vide order dt. 17.5.2022 i.e. on the date of admission of petition, recording the statement of the Standing Counsel of Respondent No.1

“Mr. Manchanda, Learned Counsel appearing for the first respondent, states that subject to verification of all facts and contentions on merits being kept open, the complaint as made shall be duly examined and such further action taken as may be warranted. He further submits that the petitioner shall be duly apprised of the decision taken on the complaint.

The first respondent shall proceed with the matter with due expedition.”

Accordingly, the petitioner vide representation dt. 27.05.2022 has preferred the present grievance requesting therein redressal of his grievance.

The present case has been taken up for the consideration as directed by the Hon'ble Court. As MCD (erstwhile EDMC) is a necessary party to the issue, so notice has also been issued to them with a direction to file an ATR on the allegations as contained in the representations of the petitioner.

It is important to record that the complainant, Shri Darshan Singh Popli had filed several grievances in the PGC and the same were forwarded to the concerned departments. An Action Taken Report received in the matter from MCD/EDMC was forwarded to the complainant.

However, in compliance of the directions of the Hon'ble Court the matter was taken up for hearing in the Commission.

2. Proceedings in the Public Grievances Commission

The Commission convened first hearing in the matter and the following are present :

Complainant : present through his son

Respondent : Sh. K.P.Yadav,
Asstt. Eng. (B), Shah. (S), EDMC

The respondent was advised to submit a detailed reply on following three points on as NDOH-21.07.2022

- Why no action has been taken on the part of the property, having same address and facing/opening in Gali No.8.
- If there was an order from the High Court of Delhi for demolition of complete building, in the year 1999, why no action has been taken on these orders by the department.
- Proposed action, as on date, in the matter to be taken by the department.

The Commission convened second hearing on 21.07.2022 and the following are present:-

Complainant : present through his son
Respondent : Sh. K.P.Yadav, AE (B),

The respondent AE present in the hearing submitted a detailed report stating that:

"The record available in the office of the Building Department, Shahdara South Zone in respect of property no. A-102, Jagatpuri, Delhi has been examined which reveals as under-

1. *The property was booked vide file No.321 on 02.02.1994 as **"unauthorized construction of hall with staircase with projection on municipal land at Ground Floor and same at First Floor"** in which the address of property is mentioned as A-102, Jagatpuri, gali No. 8 & 9.*
2. *The demolition order was passed on 15.02.1994 and the property was sealed on 19.03.1994 against the booking. In the year 1997-98, the owner of property Smt. Asha Garg & others had filed an appeal vide no. 85/ATMCD/97 against the demolition order dated 15.02.12994 in the ATMCD. The ATMCD vide its order dated 27.11.1997, set aside the impugned demolition order dated 15.02.1994 and directed that the said order shall be deemed to be a fresh Show Cause Notice served on the appellant by the Zonal Engineer*

(Bldg.), Shahadara (South) Zone in respect of the alleged unauthorized construction mentioned therein.

3. In compliance of the order of ATMCD, the hearing was conducted on 07.01.1998, 09.02.1998, 16.03.1998 & 06.04.1998 in which appellant could not file any documentary evidence in support of his claim. Therefore, the demolition order was passed on 15.04.1998.

4. In compliance of the demolition order dated 15.04.1998, the demolition action against the booked unauthorized construction was taken on 29.04.1998, 13.05.1998, 22.12.1999, 17.01.2000, 22.01.2000, 28.01.2000, 29.01.2000, 05.02.2000 & 10.03.2000.

5. The report of the Director of Vigilance dated 01.05.1997 sent to Spl. Secretary to Hon'ble L.G. mention that after the investigation it was revealed that initially the building in question was sealed on 19.03.1994, subsequently, on 28.04.1994 the area JE noticed during the round of the area that the seal had been tempered. "The order for re-sealing the property was passed on 11.07.1994 and the property was again sealed on 27.08.1994. Again on 17.10.1996, the seal was found tempered. The necessary order for re-sealing was obtained from D.C.(L) on 23.10.1996 and the property was re-sealed on 04.02.1997. The property, however, is in a sealed condition at present. In the order dated 02.01.2004 of the Hon'ble Court, passed on the contempt petition filed by Sardar Harbhajan Singh, it is mentioned that "the then Superintending Engineer stated that the portion facing gali no. 8 are only barracks, which existed even prior to regularization of the colony, when it was transferred to MCD". The order further mentioned that taking all the facts directions or entertain this contempt petition any further. The contempt petition stands disposed off and the contempt notices stand discharged.

6. It is further submitted that the inquiry report of SDM, Preet Vihar dated 16.05.2005 also does not mention that the portion of the property facing gali no.8 was ever sealed.

7. Sh. Harbhajan Singh had also filed an appeal in Hon'ble Court of Justice Hima Kohli vide WP (C) No. 7376/2011 which disposed off the matter on 18.10.2011.

8. The property bearing no. A-102, Jagatpuri was again inspected on 24.01.2009 alongwith the team of Vigilance Department of MCD & Delhi Police

and found that the area of property is approximately 200 sq. yards, which is divided in two parts of approximately 100 sq. yards. One part open in gali no. 9 and another part opens in gali no. 8. The part of the property which open in gali no. 8 is further subdivided in two parts. The part of the property which opens in gali no. 9 is in demolished and unusable condition and is sealed at Ground floor. On the part of the property which opens in gali no. 8, the ground floor is constructed on the entire area of the part property, whereas on First Floor only construction is AC sheet roof. This construction appears to be very old and found locked at the time of inspection, therefore, could not be inspected from inside in details during the inspection.

9. The property was also inspected on dated 22.04.2014 by the undersigned alongwith Junior Engineer (B) & Asstt. Engineer and during inspection, it was noticed that the property is approximately 200 sq. yards and divided into two parts of 100 sq. yards (Approx.). One part falls in gali no. 8 and other part falls in gali no.9. The part in gali no. 9 is in demolished condition and is lying sealed. The part of the property in gali no. 8 consists of two shops and staircase at ground floor and one room with AC sheet roof at first floor. The shops found locked at the time of inspection and this part appears very old.

10. The property was also inspected on dated 15.06.2022 by undersigned alongwith Junior Engineer (B) & Asstt. Engineer and during inspection it was noticed that the property is approximately 200 sq. yards and divided into two parts of 100 sq. yards (Approx.). One part falls in gali No. 8 and other part falls in gali no. 9. The part in gali no. 9 is in demolished condition and is lying sealed at three points. The part of the property in gali No. 8 consist of two shops and staircase at ground floor and one room with AC sheet roof at first floor. The shops found locked at the time of inspection and this part appears very old.

3. **Relevant facts that emerged during the hearing :**

From the perusal of records available with the file, it has transpired that the grievance issue is very old. The petitioner i.e. Darshan Singh Popli had approached the Public Grievances Commission in the year 1998 alleging

grabbing of his property bearing no. A-102, Gali No. 8 and 9, Jagat Puri, Delhi-51 and illegal constructions on it. The Commission had made certain directions/ recommendations in the year 2005 and 2006, which (as per the version of petitioner) were never complied with by the respondent department i.e. MCD (erstwhile EDMC). Admittedly, the old file(s) are not available with the Commission as the same have been weeded out long back. The petitioner again approached the Commission by way of a mail dt. 16.02.2021 re-iterating the same issue. The grievance dt. 16.2.2021 was forwarded to Dy. Commissioner, East Delhi Municipal Corporation on 02.03.2021 with a request to look into the grievance(s), take necessary action and intimate the action taken directly to the above mentioned person (petitioner hereinabove). Thereafter, the petitioner has sent a number of mail(s) on the same issue, which were subsequently sent to EDMC. In compliance of the letter sent by the Commission, EDMC vide communication dt. 05.10.2021 has submitted an Action Taken Report to the complainant. The Commission has also sent the ATR dt. 05.10.2021 to the petitioner vide mail dt. 21.12.2021.

Now, as regards the present grievance, it has emerged from the status report dt. 21.7.2022/26.07.2022 filed by the respondent Department through Executive Engineer (Building), Shahdara South Zone, MCD that-

1. The property bearing no. A-102, Gali No. 8 & 9 Jagatpuri, Delhi was booked for un-authorized construction in the year 1994 and after due process of law demolition order was passed on 15.2.1994. Pursuant to demolition order, the department executed the action on several occasions i.e. on 29.4.1998, 13.05.1998, 22.12.1999, 17.01.2000, 22.01.2000, 28.01.2000, 29.01.2000, 05.02.2000, and 10.03.2000.
2. Sealing action u/s 345-A of DMC Act, 1957 was also initiated and sealing orders were passed and property was sealed on 19.03.1994. As per report the seal was tampered number of times. However, the same was re-sealed by MCD. The property was again sealed after demolition action dt. 10.03.2000 and since then the seal is intact.

3. As per status report dt. 24.7.2022, demolition/sealing actions were taken on the portion of property opening on Gali No. 9, Jagatpuri, Delhi and no action was taken on the portion opening in Gali No. 8, Jagatpuri. The report further states that the alleged property was inspected on 15.06.2022 by area JE, AE and Ex. Engg. wherein it has been observed that the existing property was constructed in two portions. One portion falls in Street no. 09 and other in Street No. 8 with the same address i.e. A-102, Jagatpuri, Delhi. While the portion opening in Gali No. 8 is very old and separate in shape and structure consisting of one shutter at Ground Floor and one room at First Floor and as per local inquiry first floor is being by the labourers for residential purpose.
4. In the status report dt. 24.7.2022 it has also been stated by MCD that a Writ Petition having no. WP(C) 7286/2018 titled as Darshan Singh Popli & Ors. Vs. East Delhi Municipal Corporation & Ors. wherein an affidavit in the shape of Status Report/Action Taken Report was submitted by the then EE(B-I), Shahdara South Zone.
5. An interim report of Director of Vigilance dated 01.05.1997 has been submitted by the Department and no final report is available on record. As such it cannot be ascertained if any punitive action for connivance of officials / officers was ever taken by the Department.

The Commission has been further apprised that the WP(C) No. 7286/2018 has already been dismissed as withdrawn on 18.04.2022. On specifically being asked as why no action has been taken on the part of the property, having same address and facing street No.8, it has been informed vide MCD report dt. 20.07.2022 that as per report only the Ground Floor & First Floor was booked in the shape of unauthorized construction of hall with staircase with projection on MPL. land. As per record demolition action were taken against booked portion on 29.04.1998, 13.05.1998, 22.12.1999, 17.01.2000, 29.01.2000, 05.02.2000 & 10.03.2000. Therefore, it is crystal clear that the unauthorized construction opening in gali no. 9 only was booked and the rest portion were not booked at that time. Since, the said construction towards gali

no. 8 existed prior to year 2007, the said portion of the property is protected under Delhi Special Law.

On the question that if there was an order from the High Court of Delhi for demolition of complete building, in the year 1999, why no action has been taken on these orders by the department. It has been informed vide status report dt. 26.7.2022 that as per Hon'ble High Court of Delhi order dt. 08.12.1999, the demolition was to be carried out on some un-authorized portion i.e. portion opening towards gali no. 9 only. On being asked by the Commission what is the proposed action in the matter to be taken by the department. It has been informed vide status report dt. 20.07.2022 that based on the various reports, the property (building) existed prior to year 2007, so the property is protected under Delhi Special Law.

On the specific question whether any FIR has been lodged/recommended against seal tempering, the respondent MCD vide report dt. 26.7.2022 has informed that the seal of the property was tempered number of times, however, every time the property was re sealed. Last on 10.3.2000, the un-authorized portion of the property was demolished and the property was sealed at 3 points and the seal is intact as on date. It has been further informed that as per their record No FIR has been lodged for seal tempering.

The petitioner, on the other hand, vide his representations dt. 27.05.2022 and subsequent representation dt. 27.6.2022 has alleged inaction on part of MCD East and has requested that Property no. A-102, Gali No. 8 & 9 should be completely demolished and the ownership of the property should be provided to him according to courts order and report of Revenue Department. The petitioner further prayed that FIR should be registered against Rajinder Kumar Garg and others for tempering the seal.

4. OBSERVATIONS

4.1 As emerged during hearing the case, the Commission observed that petitioner i.e. Sh. Darshan Singh Popli has taken up the matter with every

authority including Hon'ble Courts. It is also not disputed by the petitioner who was represented through his son during hearing in the Commission that the petitioner has filed a number of court cases at every stage of litigation. Be there as it may, from the ATR / Status Report submitted by the department, the Commission is of the opinion that the portion facing gali no.9 of the property is in inhabitable condition and is lying sealed at 3 points. It has been also informed that the seal of the property which was last put on 10.03.2000 are intact till now. Further, the portion of property No. A-102, Jagatpuri facing gali no. 8 of the property consists of two(2) shops and staircase on ground floor and one room with AC roof at first floor are very old and are protected under Delhi special Act and as such no action can be taken against this portion at this point of time.

4.2 The other relief as sought by the petitioner that the ownership of property should be provided to me according to courts order, the Commission made it clear that it cannot act as a executing agency of Hon'ble Courts order. Moreover, for the sake of arguments if it is believed that the petitioner have any order issued by any Court in his favour then he can always approach the court of competent jurisdiction for execution of the said order.

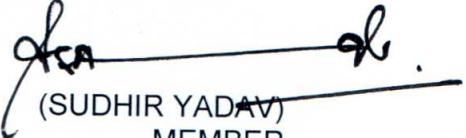
4.3 As regards filing of FIR for tempering of seal, the same has already been discussed in foregoing paras and hence no further consideration is required at the Commission level.

5. Recommendations of the PGC

5.1 Commissioner, Municipal Corporation of Delhi is advised to direct the Vigilance Department to submit a final inquiry report in the matter in respect of connivance of MCD officers with the occupants of the property, as alleged, and non – registration of FIR when the seal was tempered again and again. Commissioner, Municipal Corporation of Delhi is further advised to take further necessary action in the matter as provided under the DMC Act / Rules.

5.2 In view of the position explained above, Commission finds it appropriate that as the demolition action on part of the property facing gali No. 9 has been taken by the department, time and again making the property inhabitable and the portion facing gali No. 8 is protected under Delhi Special Laws, no action/direction is warranted on part of the Commission at this stage.

With the above directions the instant matter is ordered to be closed in the Commission.


(SUDHIR YADAV)
MEMBER

No. PGC/2022/MCD/03/7984 - 886 Dated : 16/08/2022

To:

1. Deputy Commissioner, Shahadara South Zone, Zonal Office Building, Vishwas Nagar Institutional Area, Karkardooma, Delhi - 110032
2. Sh. Charan Singh, Ex. Engineer (B), Shahadara South Zone, 2nd floor, Zonal Office Building, 419, F.I.E., Udyog Sadan, Patparganj, Delhi - 110096

Copy for information to :

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