

**BEFORE THE HON'BLE LOKAYUKTA OF DELHI
JUSTICE HARISH CHANDRA MISHRA
COMPLAINT NO. C-4141/LOK/2020**

IN THE MATTER OF:

SHRI SUNIL KUMAR

... COMPLAINANT

VERSUS

SHRI INDERJEET SEHRAWAT ... RESPONDENT

For the Complainant : Sh. Raghav Kapoor,
Sh. Nitish Kumar Verma and
Sh. Kajal Kaur, Advocates.

For the Respondent : Sh. Neeraj, Sh. Amar Jha and
Sh. Rishi Tutu Advocates.

CAV on 28.02.2023

Pronounced on 17.03.2023

ORDER

Heard learned Counsel for the complainant and learned Counsel for the respondent and perused the record.

2. The instant complaint is filed by the complainant Sh. Sunil Kumar against the respondent Sh. Inderjeet Sehrawat, who is a 'Public Functionary' within the meaning of Section 2(m) of the Delhi Lokayukta and Upalokayukta Act, 1995, (herein after referred to as the 'Lokayukta Act'), being a Municipal Councillor from Ward No. 50S (Mahipalpur), New Delhi, with the allegations that

the respondent had concealed relevant information regarding his properties at the time of filing of nomination papers before the Returning Officer on 01.04.2017, while contesting the elections for the post of Municipal Councillor in the year 2017. It is alleged that the respondent had concealed the following three properties which were acquired earlier by him, but not shown in the declaration form:-

A. Guest House under the name and style of M/s Hotel Orient, Plot No. 253/2, Khasra No. 416, Road No.5, A-Block, Mahipalpur, New Delhi -110037 measuring 500 Sq. Yards.

B. H. No. L-305, land measuring 100 Sq. Yards, out of Khasra No. 732, L-Block, Mahipalpur Extension, Gali No. 5 & 7, New Delhi, built up to 5 stories.

C. Property area measuring 100 Sq. Yards, out of Khasra No. 867/2, Village Mahipalpur, (jointly in the name of Sh. Inderjeet Sehrawat and his wife Sunita Sehrawat).

3. Upon notice, the respondent appeared through his advocate and filed his reply, wherein preliminary objections were taken as to the maintainability of the complaint and also that the complainant had not approached this Forum with clean hands, and that he is not a *bona fide* complainant as he himself is involved in several criminal activities and violations of law. The respondent also alleged that the complainant was having malice against the respondent, for not getting the demolition of the illegal construction raised by the

complaint stopped, which was being demolished pursuant to an order passed by the Hon'ble Delhi High Court. Objection has also been taken by the respondent that non-disclosure of properties in the affidavit does not confer any jurisdiction upon this Forum and can only be the subject matter of election petition, in accordance with the provisions of the Delhi Municipal Corporation Act, 1957, which also is now barred by law of limitation.

4. As regards the aforesaid three properties mentioned in the complaint, it is admitted in the reply that the property bearing Plot No. 253/2, Khasra No. 416, A Block, Mahipalpur, was purchased by the respondent jointly with his two brothers in the year 2008, when he was not holding any public office. Similarly property H. No. L-305, Mahipalpur Extension, New Delhi was purchased by the respondent in the year 2010, and the land measuring 100 Sq. Yards in Khasra No. 867, Village Mahipalpur, was purchased by the respondent jointly with his wife Sunita Sehrawat in the year 2015, through his business income, and these properties were also purchased by the respondent before holding any public office.

5. Taking into consideration the reply of the respondent, when this matter was taken up by this Forum on 14.10.2022, it was found that in the facts of this case there was no need of entering into evidence by either party. Learned Counsels for both the parties also agreed for the same and they proposed to advance their arguments in the matter. As such, this matter was fixed for arguments on 04.01.2023.

On 04.01.2023 it was submitted by the Ld. Counsel for the complainant that the complainant had learnt that the respondent had concealed other properties also which he wanted to bring on record, and upon time being granted by this Forum, additional documents were also filed, the copies whereof were served upon the Ld. Counsel for the respondent, who was given an opportunity to file reply thereto, but Ld. Counsel submitted that no reply was required, rather the arguments be heard and accordingly, the arguments were heard in part on 27.02.2023, which finally concluded on 28.02.2023 and the order was reserved.

6. The documents filed in this matter are not disputed and are admitted from both the sides. It is submitted by the Ld. Counsel for the complainant that in the year 2017 at the time his election as Municipal Councillor, the respondent had submitted his declaration form about his assets in which only two properties were shown before the Returning Officer. Ld. Counsel has drawn the attention of this Forum towards the declaration form which shows only two immovable properties owned by the respondent and his family members, one of which has been shown to be inherited and the other property is shown to be purchased. No other property has been shown in the declaration form and even the properties detailed above, are not shown in this declaration forum. Ld. Counsel has again drawn the attention of this Forum towards declaration of assets made by the respondent in the year 2018, wherein properties have been shown by the respondent, but again the three properties

detailed above have not been shown by him. Ld. Counsel again drew the attention of this Forum towards declaration of assets made by the respondent in the year 2019 wherein, in all seven properties have been shown by the respondent, including the three properties mentioned above. This declaration form shows that the respondent had disclosed the aforesaid three properties for the first time in the year 2019.

7. Ld. Counsel has again drawn the attention of this Forum towards declaration of assets made by the respondent in the year 2020 in which two more properties have been shown to be included in the declaration form, but these properties are said to be purchased in the year 2019. Finally Ld. Counsel has drawn the attention of this Forum towards the declaration of assets made by the respondent on 13th November, 2022, while submitting his nomination paper before the Returning Officer during the election held in the year 2022, wherein one property bearing Khasra No. 506, Village Mahipalpur has been shown as a joint property of three brothers of the respondent, declaring respondent's share in the property as NIL. However, Ld. Counsel has drawn my attention towards the electricity bill with respect to the same property for the period 31.08.2021 to 27.09.2021, wherein the electricity bill with respect to this property is in the name of the respondent himself. Pointing out towards these documents, Ld. Counsel submitted that these documents are sufficient to show that the respondent had made concealments in the declaration of his assets while filing his

nomination before the Returning Officer in the year 2017 and accordingly, the respondent being a 'public functionary', failed to act in accordance with the norms of integrity and conduct which ought to have been followed by him. Learned Counsel for the complainant accordingly, concluded that a case is made out for making appropriate recommendations against the respondent under Section 12 of the Lokayukta Act.

8. *Per Contra*, Ld. Counsel for the respondent has submitted that the allegations against the respondent are false and misleading. It is submitted by Ld. Counsel for the respondent that the complainant himself is involved in several criminal activities and has not approached this Forum with clean hands. Ld. Counsel has drawn the attention of this Forum towards the complaint filed by the complainant, wherein it is alleged that at the time of filing the nomination form before the Returning Officer, the respondent concealed the relevant information pertaining to his immovable assets, and after being elected as Councillor there had been a tremendous jump in his wealth and that the respondent had opted for the present position only to gain illegal financial benefits. It is pointed out by the Ld. Counsel for the respondent from the reply filed by the respondent, that the respondent had been carrying his business of transport from last 20 years and has been regularly filing income tax returns and he has sufficient source of income from his business. Ld. Counsel accordingly, submitted that it is absolutely false to allege that there had been a tremendous jump in the wealth

of the respondent after holding public office, and that the respondent had opted for becoming a Municipal Councillor only to gain illegal financial benefits.

9. In this connection, learned Counsel for the respondent has pointed out that property bearing Plot No. 253/2, Khasra No. 416, Road No.5, A-Block, Mahipalpur, was purchased by the respondent jointly with his brothers in the year 2008. Similarly, the property H. No. L-305, Gali No. 5 & 7, Mahipalpur Extension, New Delhi, was purchased by the respondent in the year 2010 through his business income and the land measuring 100 sq. yards out of Khasra No. 867, Village Mahipalpur was purchased by the respondent jointly with his wife, namely, Sunita Sehrawat in the year 2015 again through his business income. It is submitted that all these purchases were made out of the business income of the respondent and prior to the respondent holding any public office, and as such the allegation that the respondent had opted for the post of Municipal Councillor only to gain illegal financial benefits is absolutely false and baseless.

10. So far as the non-disclosure of these properties in the declaration form filed before the Returning Officer in the year 2017 is concerned, Ld. Counsel submitted that this was only a *bona fide* clerical oversight on part of the respondent and it is submitted that due to *bona fide* mistake, these properties could not be disclosed. However these disclosures were made while filing of declaration of

the assets in the year 2019. Ld. Counsel also pointed out that one property being flat No. 6546 in Vasant Kunj was shown jointly in the name of the respondent and his wife in his declaration filed before the Returning Officer in the year 2017, but in the declaration of assets made in the subsequent years, the same property has been bifurcated and has been shown separately in the name of the respondent and his wife, and there is no illegality in the same. Ld. Counsel further pointed out that the respondent had purchased Plot No. 845/3 & 4, Mahipalpur, in the year 2019 and he had duly shown it in the declaration of assets filed in the year 2020, which shows the *bona fides* on part of the respondent.

11. As regards property bearing Khasra No. 506 in Mahipalpur, it is submitted by the Ld. Counsel for the respondent that the respondent had relinquished his share in the said property much earlier in favour of his brothers, due to which the said property was not shown in the declaration of assets. It is submitted that only by way of family arrangement the respondent had relinquished his share and accordingly, no inference can be drawn against the respondent, even if the electricity bill continues to come in the name of the respondent.

12. Ld. Counsel for the respondent further drew the attention of this Forum towards Section 32A of the Delhi Municipal Corporation Act, 1957, under which provision the declarations are to be made by the Councilors, and has submitted that under this

provision the declaration of only such assets are to be made which are owned by the Councillor and members of his family, and the explanation attached to this section clearly shows that the family means the spouse and dependent children of the councilor. Ld. Counsel pointed out that as such, the joint property in which he had relinquished his share in favour of his brothers was not required to be shown in the declaration of the assets. It is further pointed out by the Ld. Counsel for the respondent that this provision has been incorporated in the Act by way of amendment made in the year 1993, on the basis of Balakrishnan Committee Report and this incorporation was made for the benefit of the persons elected to the Corporation to protect them against the false charges of corruption and amassing of wealth.

13. Ld. Counsel for the respondent thus, concluded that non-disclosure of the properties detailed in the complaint in the year 2017 was only by way of a *bona fide* clerical mistake, which was later rectified by the respondent himself, and it does not call for drawing any adverse inference against the respondent, and this is a matter fit to be dropped.

14. Having heard Ld. Counsels from both the sides and upon going through the records it is evident that three properties namely,

A. Guest House under the name and style of M/s Hotel Orient, Plot No. 253/2, Khasra No. 416, Road No.5, A-Block, Mahipalpur, New Delhi -110037 measuring 500 Sq. Yards,

B. H. No. L-305, land measuring 100 Sq. Yards, out of Khasra No. 732, L-Block, Mahipalpur Extension, Gali No. 5 & 7, New Delhi, built up to 5 stories, and

C. Property area measuring 100 Sq. Yards, out of Khasra No. 867/2, Village Mahipalpur,

were admittedly acquired by the respondent prior to the year 2017, when the respondent became a 'public functionary' upon being elected as Municipal Councillor. The respondent was in conscious possession of these properties and the submission of Ld. Counsel for the respondent that these properties were left out to be disclosed before the Returning Officer, only by way of *bona fide* mistake and overlooking, cannot be believed. The above properties apart, the property being Khasra No. 506 in Village Mahipalpur, is also admittedly the joint property of the respondent and his two brothers, and the respondent claims to have relinquished his share in favour of his brothers as per oral family settlement. This declaration has been made by the respondent only in the declaration form filed during the elections in the year 2022. He has not declared this property during the years 2017 to 2021, and at the same time he has not disclosed as to when such oral family arrangement had taken place in which he relinquished his share in favour of his brothers. This apart, the electricity bill of the property in the year 2021 shows the name of the respondent to be the owner of the property. It is not the case of the respondent that this property was not in existence in the year 2017. In my considered view, in absence of any cogent

evidence led by the respondent to show the family arrangement in which he had relinquished his share in favour of his brothers, the contention of the respondent that the property did not belong to him and as per Section 32A of the Delhi Municipal Corporation Act, it was not required to be shown in the declaration form submitted before the Returning Officer in the year 2017, cannot be accepted and is only fit to be rejected. As such there are adequate materials on the record to show that the respondent knowingly and deliberately omitted to show his immovable assets in the declaration form filed in the year 2017 when he was elected as Municipal Councillor.

15. Nothing has been argued on behalf of the respondent regarding the contention that non-disclosure of properties before the Returning Officer shall not confer any jurisdiction upon this Forum and can only be the subject matter of election petition in accordance with the provisions of the Delhi Municipal Corporation Act. There is nothing in the Lokayukta Act denying this jurisdiction to the Lokayukta of NCT of Delhi.

16. Similarly, the point of limitation taken by the respondent in his reply, also has no legs to stand. The nomination papers were filed by the respondent before the Returning Officer on 01.04.2017, while contesting the elections for the post of Municipal Councillor in the year 2017, in which the concealment of the assets is alleged by the respondent. The complaint is filed in the year 2020, i.e., well

within the limitation period of five years prescribed under Section 8(ii) of the Lokayukta Act.

17. In view of the foregoing discussions, I am of the considered view that there are adequate materials on the record to show that the respondent failed to act in accordance with the norms of integrity and conduct which ought to have been followed by him, and as such, a case is made out for making appropriate recommendations to the competent authority, i.e., the Honb'le Lt. Governor, NCT of Delhi, against the respondent.

18. Accordingly, in exercise of the powers conferred under Section 12 of the Delhi Lokayukta and Upalokayukta Act, 1995, following actions are recommended to be taken by the Competent Authority, i.e., Hon'ble Lt. Governor, NCT of Delhi, against Sh. Inderjeet Sehrawat, Municipal Councillor, Ward-50S, Mahipalpur, New Delhi:-

(I) Directions may be issued to the Commissioner, Municipal Corporation of Delhi, to take appropriate penal action in accordance with law, against Sh. Inderjeet Sehrawat, Municipal Councillor, Ward No. 50S, New Delhi, for making false declarations / concealments in the declaration form submitted by him before the Returning Officer in the year 2017, at the time of his election as Municipal Councillor, Ward No. 50S, New Delhi.

(II) Censure may also be communicated to Sh. Inderjeet Sehrawat, Municipal Councillor, Ward No. 50S, New Delhi, for making false declarations / concealments in the declaration form submitted by him before the Returning Officer in the year 2017, at the time of his election as Municipal Councillor, Ward No. 50S New Delhi.

(III) Warning / caution may be issued to Sh. Inderjeet Sehrawat, Municipal Councillor, Ward No. 50S, New Delhi, not to make false declarations / concealments in the declaration forms before the Returning Officer, be more careful in making such declarations in future in case he choses to continue with his political aspirations, and to strictly adhere to the norms of integrity and conduct which ought to be followed by the public functionaries of the class to which he belongs.

(IV) Any other action(s) as may be deemed appropriate, fit and proper to be taken by the Competent Authority, i.e., the Hon'ble Lt. Governor, NCT of Delhi, against the respondent Sh. Inderjeet Sehrawat, Municipal Councillor, Ward No.50S, New Delhi, in the facts and circumstances of the case.

19. The Registry shall take steps to send the recommendations to the Hon'ble Lieutenant Governor, NCT of Delhi, accompanied with all the relevant papers.

20. Let the copy of this order be sent to both the parties and all concerned. The records be consigned to the record room.


(JUSTICE HARISH CHANDRA MISHRA)
LOKAYUKTA, NCT of DELHI.

New Delhi,
The 17th of March, 2023