

BEFORE THE HON'BLE LOKAYUKTA OF DELHI
JUSTICE HARISH CHANDRA MISHRA
COMPLAINT NO. C-4110/LOK/2020

IN THE MATTER OF:

SMT. RAMISHA JAIN

... COMPLAINANT

VERSUS

SHRI INDERJEET SEHRAWAT ... RESPONDENT
(Municipal Councilor)

For the complainant : None.

For the respondent : Sh. Sushil Kumar Dubey, Adv.

CAV on 19.10.2023

Pronounced on 09.11.2023

ORDER

1. Heard Ld. Counsel for the respondent and perused the record. The instant complaint was filed by the complainant Smt. Ramisha Jain, alleging that Sh. Inderjeet Sehrawat, Municipal Councilor, was engaged in unauthorized construction in his property at A Block, Mahipalpur, Delhi, which is an unauthorized colony. The complainant had also alleged that the construction work was going on by encroaching the road / street and by extending the balcony that caused traffic jam in the area.

2. By order dated 07.11.2020 this matter was tagged with Complaint No. 4141/Lok/2020, taking into consideration that the allegations were similar in both the matters. Reports were also called for from the concerned authorities. The complainant, however, was not taking interest in the matter.
3. After the undersigned took over charge of this office, this matter was separated from Complaint No. 4141/Lok/2020, as it was found that the allegations in both the matters were quite different, in as much as, Complaint No. 4141/Lok/2020 related to concealment of property in the Declaration Form filed before the Returning Officer during the election of the respondent as Municipal Councillor in the year 2017, whereas the present matter related to illegal construction / encroachment over his property by the respondent.
4. After the undersigned took over charge of this office, the complainant was again noticed in the matter and pursuant to the notice, the complainant appeared and filed written request to withdraw the complaint. On 11.04.2023 the complainant also appeared in person and pressed the application for withdrawing the complaint. In view of the submission of the complainant, she was dispensed with her appearance in the matter by the order passed on the same date, i.e., on 11.04.2023. However, taking into

consideration the allegations against the respondent, who happened to be a 'Public Functionary' within the meaning of Section 2(m) of the Delhi Lokayukta and Upalokayukta Act, 1995, (herein after referred to as the 'Act'), being a Municipal Councillor from Ward No. 50S, Mahipalpur, New Delhi, the matter was treated to be taken on 'Other Information' under Section 7 of the Act.

5. A report was submitted in the matter on 23.04.2021 by the Executive Engineer (Building), Najafgargh Zone, MCD, wherein it was mentioned that there was unauthorized construction in the property at Kh. No.416, Road No.5, A-Block, Mahipalpur, in the shape of Basement, G.F. to 3rd floor (old), and renovation / addition / alteration with projection on municipal land. 4th floor (new) of the property stood booked on 14.01.2020 under Section 344(1) and 343 of the Delhi Municipal Corporation Act 1957 (herein after referred to as the 'DMC Act'), and show cause notice was sent to the owner / occupier. The demolition order was also passed on 07.02.2020.
6. The Asst. Director (Investigation) of this office was also asked to submit a report in this matter, who after due enquiry submitted his report on 23.06.2022, further reporting that by order dated 11.04.2022, passed in Appeal No. 74/2022, the Appellate Tribunal MCD had set aside the demolition order and the matter was remanded

back to the Quasi-Judicial Authority for deciding the same afresh.

7. The record shows that the Quasi-Judicial Authority passed the order on 09.06.2022, finding that the construction in the shape of Basement and G.F. to 3rd floor was an old construction, constructed prior to the cut off date prescribed under the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Ordinance 2020, and accordingly, no punitive action could be taken till 31st December, 2023. However, the Quasi-Judicial Authority directed the respondent to demolish the new unauthorized construction of 4th floor.
8. The latest report dated 23.03.2023 submitted jointly by the JE and AE (Building), Najafgargh Zone, MCD, shows that the demolition action of the 4th floor of the property had been carried out on 16.03.2023 in the presence of the police force.
9. Notice was issued to the respondent as well in the matter, who appeared through advocate and filed his reply. His reply admitted the fact that the property belonged to the respondent Inderjeet Sehrawat. The respondent has taken the stand that property was acquired by the respondent much prior to his becoming Municipal Councillor and it is an old property which is protected under the National Capital Territory of Delhi Laws (Special Provisions)

Second (Amendment) Ordinance 2020. Respondent has also stated in his reply that property was previously booked under Sections 344(1) / 343 of the DMC Act on 14.01.2020 and demolition order was also passed on 07.02.2020, against which the answering respondent approached the Appellate Tribunal of Municipal Corporation of Delhi by way of an Appeal No. 74/2022. In appeal the demolition order was set aside and the matter was remanded back to the Quasi-Judicial Authority of MCD for passing a reasoned order. The Quasi-Judicial Authority passed a speaking order wherein it confirmed that the property is old and protected under the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Ordinance 2020. It has been submitted in the reply that a portion of the property which was declared unprotected, i.e., 4th Floor, was demolished on 16.03.2023 and letter was issued to answering respondent not to make any re-construction over the said property. The respondent has thus, stated in his reply that now there is no construction existing at the property which can be termed to be in violation of law, and as such, this complaint has become infructuous.

10. By order dated 03.08.2023 the respondent was also given the opportunity to adduce any evidence in the matter, if he so desired, but learned Counsel for the respondent

submitted that no evidence was required to be adduced in the matter and accordingly, the matter was fixed for final hearing.

11. Ld. Counsel for the respondent has also filed written arguments in the matter giving the details of the orders passed by the various authorities and has also brought on record the documents by which the property was acquired by the respondent. It is submitted in the reply that this is an old property which was purchased by the respondent and his two brothers way back in the year 2008 and at that time of purchase the property consisted of basement, first and second floors. The 3rd floor of the property was constructed by the respondent and his brothers way back in 2009, when the respondent was not a Municipal Councillor of any area of Delhi. It is also stated that this part of the property is now protected under the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Ordinance 2020, which protects the constructions made before 01.06.2017. It is stated in the written argument by the respondent that the respondent became a Municipal Councillor in the year 2017. It is further submitted that on the 4th floor of the building the provision for keeping generator etc, was made which construction was demolished on 16.02.2023. It is

submitted that now since there is no violation of law, this matter is fit to be quashed.

12. Ld. Counsel for respondent submitted that the respondent always acted *bona fide* and never misused his power as a Municipal Councillor. It is submitted that whatever construction was made after the respondent became the Municipal Councillor, was only for making provisions for generator and other necessities, but the same has also been demolished by the MCD, which clearly shows that the respondent never misused his powers as a Municipal Councillor. It is submitted that though property was booked on 14.02.2020, but earlier demolition action could not take place due to COVID pandemic and since the matter was pending adjudication before the competent authority. Ld. Counsel submitted that whatever unauthorized construction was there, it was not by any abuse or misuse of power, rather it was only for necessities, which also has since been demolished by the authorities. Ld. Counsel accordingly, submitted that no further construction has been made by the respondent and it a fit matter to be dropped.
13. Having heard learned Counsel for respondent and upon going through record, I find that admittedly the property at Kh. No.416, Road No.5, A-Block, Mahipalpur, belongs to the respondent which respondent claims to have

purchased in the year 2008 and that portion of the property is protected under the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Ordinance 2020. But the fact remains that some construction was made by the respondent on the 4th floor which was admittedly constructed after the respondent become a Municipal Councillor, i.e., a 'Public Functionary' within the meaning of Section 2(m) of the Act. As a public functionary, the respondent was not expected to make any unauthorized construction, and by making such construction the present respondent has failed to act in accordance with the norms of integrity and conduct which ought to have been followed by him as such public functionary. In my considered view, the plea of the respondent that the construction of the 4th floor over the property was made only for the necessities, and was not done abusing or misusing his position as a Municipal Councillor, cannot be accepted and is fit to be rejected.

14. In view of the foregoing discussions I find and hold that the respondent Sh. Inderjeet Sehrawat, Municipal Councillor, Ward No. 50S (Mahipalpur), New Delhi, has failed to act in accordance with the norms of integrity and conduct which ought to have been followed by him as such public functionary, by making unauthorized construction of 4th floor of his property at Kh. No.416,

Road No.5, A-Block, Mahipalpur, which had to be demolished by the municipal authorities. Accordingly, a case is made out for appropriate recommendations to be made to the Competent Authority, i.e., Hon'ble Lt. Governor of National Capital Territory of Delhi, for taking appropriate actions against the respondent.

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

- (i) **Censor be communicated to the respondent Sh. Inderjeet Sehrawat, Municipal Councillor, Ward-50S, Mahipalpur, New Delhi, for making unauthorized construction over the property bearing Kh. N-416, A-Block, Mahipalpur, New Delhi, while he was a Municipal Councillor.**
- (ii) **Warning / caution be also communicated to the respondent Sh. Inderjeet Sehrawat, Municipal Councillor. Ward-50S, Mahipalpur, New Delhi, to be more careful in future and not to indulge in any such activity which is not in accordance with the norms of integrity and**

conduct which ought to be followed by him as such public functionary.

(iii) Any other action(s) as may be deemed appropriate, fit and proper, be taken by the Competent Authority, i.e., Hon'ble Lt. Governor, NCT of Delhi, against the respondent Sh. Inderjeet Sehrawat, Municipal Councillor, Ward-50S, Mahipalpur, New Delhi.

16. Registry shall take steps to send the recommendations to the Hon'ble Lt. Governor, NCT of Delhi, accompanied with all relevant papers.
17. Let the copy of this order be sent to all concerned. The record be consigned to record room.


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

New Delhi,
The 09th November, 2023.