

**BEFORE THE HON'BLE LOKAYUKTA OF DELHI
JUSTICE HARISH CHANDRA MISHRA**

COMPLAINT No. C-4225/LOK/2021

IN THE MATTER OF:

SH. AMIT YADAV

....COMPLAINANT

VERSUS

SMT. VIDYA DEVI

....RESPONDENT

PRESENT:

None for complainant.

Smt. Vidya Devi, respondent in person.

CAV on 26.11.2024

Pronounced on 27.11.2024

ORDER

Perused the records.

2. This matter was initially initiated on a communication received in this office on 09.04.2021 from Sh. Amit Yadav, r/o 910, Gali No.1, Prem Nagar, New Delhi – 110008, whereby he had allegations against Smt. Vidya Devi, an Ex-Municipal Councillor, for attempting to construct a house at Property No.273, Gali No.8, Nehru Nagar, New Delhi - 110008, in connivance with the local MLA, MCD and Police officials, and there were underground water lines of 36 inches, 8 inches and 4 inches, and there was a threat of causing damage to the water lines.

3. As the complaint was not in the prescribed format along with the requisite court fee, as per Rules 6, 7 and 8 of the Delhi Lokayukta and Upalokayukta (Investigation) Rules, 1998, the complainant was noticed to comply with the aforesaid provisions. However, the notice, issued to the complainant, returned back unserved as the whereabouts of the complainant could not be ascertained.

4. Taking into consideration the serious allegations against the respondent Smt. Vidya Devi, who earlier happened to be a 'public functionary' within the meaning of Section 2(m) of the Delhi Lokayukta and Uplokayukta Act, 1995, (herein after referred to as the 'Act'), being an Ex-Municipal Councillor, the matter was treated to be taken on 'other information' under Section 7 of the Act, and proceedings were initiated.

5. A report was called for from MCD, which submitted its report dated 29.03.2023, in which it was reported that the Property No.273, Gali No.8, Nehru Nagar, New Delhi, had been inspected on 20.03.2023 by their AE(B) / JE(B), and the house was already existing on the plot from ground floor to third floor, and no on-going construction was seen on the property. It was further reported that as per the information gathered from the local inquiry, the building was upon the DDA land.

6. Consequently, a report was also called for from DDA authorities and the Dy. Director/LM/NWZ of DDA submitted the report that the officers of DDA conducted a site inspection of the property and it was found that the property, in question, was neither an awarded land of DDA nor it had been handed over to DDA as Gram Sabha land. As such, the DDA had no role to play in the property.

7. Subsequently, on 04.09.2024 a report dated 03.09.2024 was also filed by the MCD on affidavit stating that the Building Department had initiated action under Section 344(1) and 343 of the DMC Act against the unauthorized construction of property above the said land, for which the demolition order had also been passed on 20.08.2024. However, there was nothing in the report to show that the property was constructed by the respondent while she was the Municipal Councillor.

8. The respondent was also noticed in the matter, who appeared on 11.11.2024 and submitted her reply on affidavit along with the connected documents. She has stated that she was a Municipal Councillor from Ward No.134 during the years 2002-2007, and she is residing in Property No.273, Gali No.8, Nehru Nagar, New Delhi, since the year 1974 itself, and along with her reply she enclosed the documents relating to House Tax, MTNL Bill, DESU Bill and DJB Bill and the copy of her ration card, which related to the years 1979 to 1998. She stated in her affidavit that as she was a Municipal Councillor from Ward No.134 since 2002 to 2007, some false allegations have been leveled against her due to political reasons.

9. As the aforesaid affidavit was not clear as to whether any construction in the property was made while the respondent was a Municipal Councillor, vide order dated 11.11.2024, the respondent was asked to clarify as to when the constructions above the ground floor on the property was made.

10. On 26.11.2024, when this matter was again taken up, the respondent again filed an affidavit stating that she had done some repair work in the house in the year 2020, in which she got electricity connections on the second and third floor of the house.

11. The statement of the respondent was recorded on oath by this Forum, wherein she has stated that she was Municipal Councillor from the year 2002 to 2007 only, and she never contested any elections thereafter. She had never held any political position either prior to 2002 or after 2007. She has stated that she is living in her House No.273, Gali No.8, Nehru Nagar, New Delhi, since the year 1974 itself, and this house is a three storeyed from the year 1974 itself. She has also stated

on oath that she has not made any construction in the house during the period 2002 to 2007, when she was the Municipal Councillor.


12. Thus, from the record it is apparent that there is no report either from the MCD or DDA to show that any construction was made on the aforesaid property while the respondent was a public functionary within the period from 2002 to 2007. According to the respondent's case, the house is existing with three storeys since the year 1974 itself, and there is no record to the contrary by the concerned officials. The respondent has also categorically stated that no construction was made by her in the house during the period from 2002 to 2007 when she was the Municipal Councillor. The report submitted by the MCD, on 29.03.2023, also shows that the house was already existing on the plot from ground floor to third floor, and no on-going construction was seen on the property. Thus, the allegation in the complaint that there was an attempt by the respondent to construct a house on the said property and there was a threat of causing damage to the underground water lines, could not be substantiated in the reports discussed above. Even the complaint is not filed in the prescribed format along with the prescribed Court fee, and the complainant could also not be traced.

13. In the aforesaid facts and circumstances, it is apparent that there is no material on record to establish the fact that any construction was done in the house during the period 2002 to 2007 during which period the respondent, Smt. Vidya Devi, was a public functionary. If any act had been done by the respondent prior to her becoming a 'public functionary' or after she ceases to be a 'public functionary', this Forum has no jurisdiction in the same.

14. As such, since there is no material on record to show that the respondent 'public functionary', during her tenure as Municipal Councillor from the year 2002 to 2007, has failed to act in accordance with the norms of integrity and conduct which ought to be followed by her; or that she had abused or misused her position to obtain any wrongful gain or favour, no action is required to be taken in this matter.

15. This matter is, accordingly, dropped being devoid of any merit.

16. Inform all concerned. Let the records be consigned to the record room.


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

New Delhi,
The 27th of November, 2024.