

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12718/2006**

GRAM SUDHAR SABHA WAZIRPUR DEL Petitioner
Through Mr. S P Sharma, Adv.

versus

GOVT OF NCT OF DELHI & ANR Respondents
Through Ms. Zubeda Begum, Adv. for respondent
no.1
Ms. Charul Sarin, Adv. respondent/DDA

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

% **ORDER**
25.03.2008

1. It is stated by the learned counsel for the respondent-Government of NCT of Delhi and Union of India that a scheme has been formulated for regularisation of unauthorised colonies. The said scheme/guidelines for regularisation were filed in this court pursuant to directions given in Common Cause (Regd.) Society versus Union of India and Others (CWP No. 4771/1993).

Thereafter, this Court had given the following directions:-

(a) It would be appropriate for the Ministry of Urban Affairs and Employment, Department of Urban Development notifies colonies, which according to it are to be regularised in terms of General Principles, more particularly, paragraph

(1.1) of the guidelines.

(b) Till the modalities in terms of the guidelines are worked out, interim orders passed in CWP No. 4771/1993 and connected petitions shall be operative.

(c) By giving the direction/making observation, it shall not be construed as if we have expressed any opinion about the legality or otherwise of the guidelines in question.

2. The Union Government in consultation with the Government of NCT of Delhi, MCD, DDA etc. has been examining modalities for implementing the guidelines/scheme and the latest revised guidelines were sent to the Commissioner (Planning), DDA on 5th October, 2007 to frame draft modalities for the regularisation process. The draft modalities have been received from DDA and are under finalisation in the Ministry.

3. It is stated by the counsel for the Union of India that after modalities for regularisation are completed and the list of colonies which are to be regularised is finalised, they shall be placed before the Court in terms of directions issued in Common Cause (Regd.) Society (supra).

4. I may also note here that in terms of National Capital Territory of Delhi Laws (Special Provisions) Act, 2007, the respondent local authorities have not

been taking action and general amnesty has been granted to properties that were constructed before the cut off date and the said amnesty will continue till 31st December, 2008.

5. The statement made by the learned counsel for the respondents substantially takes care of the grievance raised by the petitioners. It is also the case of the petitioners that they have applied for regularisation under the scheme/guidelines in terms of advertisements issued by the Government of NCT of Delhi and their cases are pending consideration. The scheme/guidelines are not subject matter of challenge in these writ petitions. In these circumstances, I do not see any purpose in continuing with the present writ petitions, which are rendered infructuous in view of the policy decision taken by the Government of India and the scheme floated by them. Respondent local authorities are implementing the said scheme. It is stated by the respondents that action will be taken only in terms of the said scheme as well as the modalities for regularisation, which have to be finalised and subject to orders of High Court in terms of the decision in the case of Common Cause (Regd.) Society (supra). No further directions are, therefore, required to be issued in these cases. It is, however, clarified that in case any of the petitioner has an individual grievance, it will be open to the petitioner to approach this Court or even seek revival of this writ petition. It is further clarified that the respondent local authorities are at liberty to take action and demolish any

unauthorized construction and encroachment which are not protected by the scheme and have taken place after the cut off date but action with regard to constructions protected under the scheme will be taken by the local authorities in terms of the said scheme. The respondent authorities, who have already formulated the scheme, will take action only in terms of the scheme and not otherwise.

6. In order to ensure that no further construction takes place, all person who are members of the petitioner association and want to take benefit of this order will file a site plan showing the existing construction on the plot along with an affidavit/undertaking that they shall not carry out any further construction and the site plan is correct to their knowledge and has been drafted/prepared after inspecting the original site by the concerned draftsman/engineer/architect. Photographs of the existing building from the front, back and sides will also be filed. The aforesaid affidavit/undertaking along with building plans and photographs will be filed with the DDA with copy to the Ministry of Urban Development, GNCT of Delhi within one month from today.

7. It is also clarified that this general order will not over-ride any order/judgment passed by a civil court or an order/judgment passed in

proceedings under Articles 32 and 226 of the Constitution of India.

The writ petition is disposed of.

DASTI.

SANJIV KHANNA,J

MARCH 25, 2008
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