

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

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Date of decision: 15th October, 2012

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W.P.(C) No.3855/2012

CONFERENCE FOR HUMAN RIGHTS (INDIA) Petitioner

Through: Ms. Namita Sharma, Adv.

Versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Ms. Shobhana Takiar, Adv. for
GNCTD.

Mr. Sanjay Poddar, Sr. Adv. with Mr.
Parvinder Chauhan, Adv. for DUSIB
along with Mr. P.K. Chaturvedi, Chief
Engineer, DUSIB.

Ms. Mini Pushkarna, Adv. for SDMC.

AND

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CONT.CAS(C) No.679/2012

CONFERENCE FOR HUMAN RIGHTS (INDIA) Petitioner

Through: Ms. Namita Sharma, Adv.

Versus

MANISH GUPTA & ANR.

..... Respondents

Through: Mr. Sanjay Poddar, Sr. Adv. with Mr.
Parvinder Chauhan, Adv. for DUSIB
along with Mr. P.K. Chaturvedi, Chief
Engineer, DUSIB.

Ms. Mini Pushkarna, Adv. for SDMC.

CORAM :-

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J

1. The writ petition filed in public interest seeks a direction to the respondents Municipal Corporation of Delhi (MCD) and Delhi Urban Shelter Improvement Board (DUSIB) to remove the deplorable sanitary conditions endangering the health and hygiene of the dwellers of the slum / JJ Cluster, Indira Kalyan Vihar Camp, Okhla Phase-I, New Delhi.

2. Notice of the petition was issued and an affidavit is filed by the South Delhi Municipal Corporation (SDMC) stating that the Sanitation Department of the Central Zone undertakes sweeping in the area on regular basis everyday; there are 16 workers from the Sanitation Department who are deputed at the said slum / JJ colony everyday for the purpose of cleaning the area; the said workers, under the supervision of a Sanitary Guide and Sanitary Inspector undertake cleaning of the area everyday; they report at seven in the morning and besides cleaning the roads and the streets inside the colony also remove the garbage from the colony; that the drains in the colony are open and only 6 inches in width and 9 inches in depth and are cleaned regularly; Anti-Pesticides, Anti-Malaria, Anti-larvae and other medicine for control of mosquitoes and diseases are regularly sprayed in the said drains as well as at other places in the colony having potential for breeding of mosquitoes; that there is also a big drain running through the colony; however encroachments in the form of constructions have been made on both sides of the big drain and residents throw garbage therein which leads to the clogging thereof –

de-silting of the said drain is undertaken every six months; that the said slum cluster is highly congested with the residents having constructed multi-level jhuggies extending upto three floors, exerting pressure on the civic amenities in the area; that the Community Toilet Complex in the colony is under the jurisdiction of DUSIB which is responsible for maintenance thereof; in fact the entire slum cluster is now under the jurisdiction of DUSIB and it is the duty and responsibility of DUSIB to carry out cleanliness and other sanitation operations therein which till now were being carried out by the MCD.

3. During the hearing on 05.09.2012, the counsel for the petitioner produced photographs depicting an open Nala 500' x 50', out of which 20' x 30' had collapsed. This Court being of the opinion that such an open Nala posed a danger to the residents of the said slum, particularly the children, vide order of that date directed DUSIB to cover the same immediately.

4. Contempt case aforesaid was filed averring non compliance of the aforesaid order. Cognizance thereof was taken and DUSIB directed to file a report as to the compliance of the aforesaid order. Mr. P.K. Chaturvedi, Chief Engineer of DUSIB was also directed to personally appear before this Court.

5. CM No.17302/2012 has been filed by DUSIB seeking modification of the order dated 05.09.2012 pleading that open Nala aforesaid which had been directed to be covered is in fact a covered septic tank and is a part of Jan Suvidha Complex in the said colony and which is under the

control, management and maintenance of the MCD. It is further pleaded that, it is the MCD which has proper technical knowhow and skilled staff under its Unit known as DEMS to carry out the work directed by this Court.

6. Mr. P.K. Chaturvedi, Chief Engineer, DUSIB is present today in Court as directed. Today, the senior counsel for DUSIB, under instructions states that, without prejudice to its contentions in CM No.17302/2012 that , it is the MCD which is liable to carry out the work of coverage of the open Nala, DUSIB has already commenced the said work and which shall positively be completed within one week of today. It is further stated that the controversy as to who is to bear the expenses on the said work will be got resolved by approaching the Chief Secretary.

7. The counsels for DUSIB as well as MCD however state that houses have been constructed on the supporting walls of the Nala; though the Nala was covered but owing to the residents using the coverage over the Nala for all possible purpose and putting load thereon, portions thereof have collapsed. It is further stated that owing to the density of the population, the said Nala is no longer approachable even for cleaning or for repair / restoration of coverage purposes. It is yet further urged that the coverage of the collapsed portions even after completion / repair is unlikely to last owing to the damage likely to be caused thereto by the residents.

8. The counsel for the petitioner on behalf of the residents of the locality states that the residents of the said locality shall fully cooperate in

providing access to the workers of the concerned Agency for inspecting, repairing, restoring and cleaning the said Nala and will cooperate in the works and will ensure that no further damage is caused to the coverage over the Nala.

9. As far as the relief claimed in the writ petition of directing the MCD / DUSIB to carry out cleaning operations is concerned, the counsels for MCD / DUSIB have assured that all possible steps shall be taken for keeping the area clean and in a hygienic condition.

10. In view of the aforesaid, we close the contempt proceedings and taking note of the aforesaid, dispose of the writ petition also, binding the MCD / DUSIB to their statements aforesaid and directing them to take all possible steps for getting the area cleaned. The residents of the area are also directed to not cause any damage to the coverage over the Nala and to cooperate with the governmental Agencies in keeping the area clean and in a hygienic state and to provide access to the workers of the governmental Agencies for carrying out their duties in the area.

No costs.

RAJIV SAHAI ENDLAW, J

CHIEF JUSTICE

OCTOBER 15, 2012

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