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

+ **W.P.(C) 4745/2013**

COMMISSIONER OF POLICE

..... Petitioner

Represented by: Mr.V.K.Tandon, Advocate

versus

ABHIMANYU

..... Respondent

Represented by: None.

+ **W.P.(C) 4751/2013**

COMMISSIONER OF POLICE

..... Petitioner

Represented by: Mr.V.K.Tandon, Advocate.

versus

SUBHASH CHAND

..... Respondent

Represented by: None

+ **W.P.(C) 4754/2013**

COMMISSIONER OF POLICE

..... Petitioner

Represented by: Mr.V.K.Tandon, Advocate.

versus

MAHIPAL

.... Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE V. KAMESWAR RAO

Signature Not Verified

Signing Date: 11.09.2024 17:07:03
Certify that the digital and physical file have
been compared and the digital data is as per
the physical file and no page is missing.

W.P.(C) 4745/2013, 4751/2013, 4754/2013,

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ORDER

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29.07.2013

WP(C)No.4745/2013, 4751/2013 & 4754/2013

1. The respondent of the three captioned writ petitions face a joint inquiry. A common charge was framed against them to the effect that the three respondents, HC Subhash, Ct.Abhimanyu and Ct.Mahipal were detailed in Beat No.4 PS Bharat Nagar and they failed to report unauthorized construction on the roof of flat No.195, Ashok Vihar, Phase-IV as also some ongoing construction on the fourth floor of another flat bearing No.209.
2. The evidence before the Inquiry Officer was the testimony of Insp.Banwari Lal and ASI Krishan Kumar, examined as PW-1 and PW-2 respectively, that they were a part of a vigilance team and that on July 19, 2010 they noted the unauthorized construction on the roof of the two flats and that the construction was on the fourth floor. Through the mouth of HC Govind PW-3 the evidence before the Inquiry Officer was that on July 17, 2010 Ct.Abhimanyu had reported the unauthorized construction but report thereof could not be sent to the Municipal Corporation of Delhi because 17th and 18th July were holidays and that the report was sent to the Municipal Corporation on 19th.
3. It is apparent that the charge against the three junior level police officials that they did not report the unauthorized construction till it was detected on July 19, 2010 had to fail.
4. Surprisingly, the Inquiry Officer noting as aforesaid, returned a finding that the charge was partly proved.
5. The penalty levied on the three junior level officers has been

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quashed by the Tribunal observing that what part of the charge was partly proved has not been brought out by the Inquiry Officer and even before the Tribunal.

6. Same thing has transpired in court today. In light of the testimony of PW-3 and the documents proved by him that Ct.Abhimanyu had reported the unauthorized construction on July 17, 2010, the question of the charge being partly proved fails.

7. A feeble attempt was made to argue that the charge actually was of reporting the construction late i.e. by allowing it to reach a stage of near completion. Now, if this was so, the charge had not to be that the three officers did not report unauthorized constructions on the roofs of the two flats. The charge ought to have been that they reported the construction late. If this had been done, the department would be called upon to prove that the constructions which were reported by Ct.Abhimanyu had been permitted to be carried out and the submission of the report was a ruse. The three delinquent police officers would have then been called upon to prove their defence. That apart, from the record we find that the unauthorized constructions were on the fourth floor and consisted of erecting four walls on the terrace to form a room 6' x 10', and this work can be executed by a mason in less than 8 hours. It assumes importance to note that the roofs had not been cast. It cannot be lost sight of that these unauthorized constructions could have only been noticed by Beat Constables once the walls reached a certain height, for only then could the same have been seen from the street.

8. We dismiss the writ petitions in limine but without any order as to costs.

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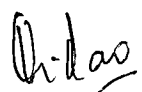
CM No.10827/2013 in WP(C) No.4745/2013

CM No.10833/2013 in WP(C) No.4751/2013

CM No.10837/2013 in WP(C) No.4754/2013

, Dismissed as infructuous.


PRADEEP NANDRAJOG, J.


V. KAMESWAR RAO, J.

JULY 29, 2013

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