

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

% Date of Decision: 28.11.2013

+ W.P.(C) 6756/2012

DELHI ANUSUCHIT JATI VIKAS SANGHTAN Petitioner

Through: Mr Vikas B. Pakhiddey, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS Respondents

Through: Mr Rajiv Nanda, Additional
Standing Counsel and Mr Manish Kr. Vikkey,
Adv. for Respondent No. 1

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

A Panchayat Ghar/Ragair Choupal was constructed by Government of NCT of Delhi in C-Block, Phase-II, Nangloi, Delhi. As per the terms and conditions of the Scheme under which the aforesaid Panchayat Ghar/Ragair Choupal was constructed, its possession was to be handed over to an identified Association/RWA/Society/Registered Body/Institution for day to day maintenance work. For this purpose, an MoU was to be signed between the identified Association/RWA/Society/Registered Body/Institution and the

Department of Welfare of SC/ST in the Government of NCT of Delhi. Since no such agency was being identified to manage the aforesaid Panchayat Ghar/Ragair Choupal, W.P.(C) No. 496/2010 was filed for a direction to the Government of NCT of Delhi to complete the process of signing of MoU for management of the aforesaid Panchayat Ghar/Ragair Choupal. During the course of hearing of the second petition, the learned counsel for the Government of NCT of Delhi stated that a decision had been taken to handover the management of Panchayat Ghar/Ragair Choupal to Janta Kalyan Manch, which is respondent No. 3 in this writ petition. The petitioner expressed a grievance that Janta Kalyan Manch was an organization of Shri Manoj Kumar Shokeen, respondent No. 2 in this petition, who headed the Selection Committee for identifying the NGO to whom the management of Panchayat Ghar/Ragair Choupal was to be handed over. It was also pointed out that the address of the said organization was the same as was the address of the office of Mr Manoj Kumar Shokeen. The writ petition was, thereafter, disposed of with the following direction:-

“6. In the circumstances, this writ petition is disposed of with the following directions:-

a. The Dy. Commissioner (Revenue) of the area to enquire into the matter i.e. whether Mr. Shokeen has misused his position and who is

best suited to be put into management of Panchayat Ghar/Raigar Choupal. The petitioner as well as the aforesaid applicants to appear before the Dy. Commissioner (Revenue), Nangloi for hearing in this regard on 28th July, 2011 at 1600 hours and on such subsequent dates as may be fixed;

b. The Dy. Commissioner (Revenue) to pass a reasoned order on the grievance of the petitioner and the applicants and also record the reasons for identifying any particular NGO for signing of the MOU and to also determine the eligibility and suitability of the aforesaid JKM to the management of the Panchayat Ghar/Raigar Choupal;

c. To enable the concerned parties to vent their grievance(s) if any against the said order, it is further directed that MOU be not entered into and control of Panchayat Ghar/Raigar Choupal be not handed over to selected party for a period of two weeks after the communication of the order to the concerned parties.”

2. In compliance of the order passed by this Court, the Deputy Commissioner (West) passed an order dated 24.11.2011, deciding to handover the management of the aforesaid Panchayat Ghar/Ragair Choupal to the petitioner before this Court. As regards the direction of the Court to enquire as to whether Mr Manoj Kumar Shokeen had misused his position, an order dated 20.04.2012 was passed by the

Deputy Commissioner (West). The aforesaid order, to the extent it is relevant, reads as under:-

“Accordingly the matter was heard on that issue also. During the hearing the petitioner Sangthan though placed on record certain photographs showing that the address of the NGO Janta Kalyan Manch and the office of Sh. Manoj Shokeen is the same, i.e. C-625, Camp No.2, Nangloi, Delhi but it failed to place on record any concrete evidence to show that Shri Manoj Shokeen misused his position in any manner.

The representatives of Janta Kalyan Manch denied the allegations stating that H.No.C-625, Phase II, Nangloi does not belong to Mr. Shokeen and thus the allegations made by the petitioner Sangthan against Mr. Manoj Shokeen are absolutely wrong.

The petitioner Sangthan was asked to produce any other evidence in support of its contention but it failed to do so. The other committee members viz. Shri S.S. Gulati, XEN and Sh. Shekhar Awasthy, AE of I & FC Deptt. and Shri K.P. Rangari, Deputy Director Deptt. Of Welfare of SC/ST/OBC & Minorities, Govt. of Delhi were also called. They stated that while finalizing the name of the NGO no party politics was allowed. The case was decided on its merits. However, whatever deficiencies occurred while taking the decision were due to the absence of guidelines in the selection of an NGO. Thus, the petitioner could not establish that Mr. Shokeen, MLA misused his position in any manner.”

3. The contention of the petitioner is that though they had produced substantial evidence which would have shown misuse of office by Mr Manoj Kumar Shokeen while identifying a suitable NGO for managing the aforesaid Panchayat Ghar/Ragair Choupal, such evidence was ignored by the Deputy Commissioner. As noted earlier, the direction of this Court was to the Deputy Commissioner was to pass a speaking order. He has considered the contention made by the petitioner and has taken a view which finds reflected in the last paragraph of his order. He has also examined the photographs which the petitioner had produced before him. The learned counsel for the petitioner states that some other photographs were also produced before the Deputy Commissioner, which were not considered by him. A perusal of the order dated 20.04.2012 would show that besides hearing the petitioner, he also examined other members of the Committee, namely, S.S. Gulati, Executive Engineer and Sh. Shekhar Awasthy, Assistant Engineer of I &FC Deptt. and Shri K.P. Rangari, Deputy Director Deptt. of Welfare of SC/ST/OBC & Minorities, Govt. of Delhi. All of them stated that while finalizing the name of the NGO, no party politics was allowed and the case was decided on its merit. In these circumstances, the Deputy Commissioner felt that the deficiency which occurred in identifying the

NGO were due to absence of guidelines as regards selection of an NGO and the petitioner could not establish that Mr Manoj Kumar Shokeen had misused his position in any manner. The aforesaid order, in my view, complies with the directions given by this Court, while deciding the writ petition. It has to be kept in mind that the main issue before the Court was management of Panchayat Ghar/Ragair Choupal and the issue of misuse by Mr Manoj Kumar Shokeen of his position was only incidental, restricted to the process of identifying the agency which had to manage the Panchayat Ghar/Ragair Choupal. It was not necessary, for the Deputy Commissioner, to refer to the entire material produced before him, in his order. So long as the order passed by him is a speaking order, it complies with the direction of the Court. This Court sit in appeal over the view taken by the Deputy Commissioner.

The writ petition, in these circumstances, is dismissed.

V.K. JAIN, J

NOVEMBER 28, 2013
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