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

+ W.P.(C) No.2345/2014 & CM No.5406/2015 (of the Amicus Curiae for directions).

COURT ON ITS OWN MOTION

..... Petitioner

Through: Mr. Nidhesh Gupta, Sr. Adv. (Amicus Curiae) with Mr. Tarun Gupta, Adv.

versus

UOI THROUGH MINISTRY OF URBAN
DEVELOPMENT & ORS

..... Respondents

Through: Mr. Amit Mahajan with Ms. Nitya Sharma, Advs. for UOI.
Ms. Zubeda Begum, Standing Counsel PWD & GNCTD.
Mr. Anil Grover, Standing Counsel and Ms. Divya Jain, Adv. for NDMC.
Mr. Sanjeev Sabharwal, Standing Counsel, DDA.
Mr. Ajay Arora, Adv. for MCD.
Mr. Daleep Kumar Dhyan and Mr. Rahul Arya, Advs. for applicant (People's action through its executive member).
Mr. Sunil Satyarthi, Adv. for Delhi Cantonment Board.
Mr. Balendu Shekhar & Mr. Vivek Jaiswal, Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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25.03.2015

1. Mr. Nidhesh Gupta (Amicus Curiae) has handed over in Court in a sealed envelope copies of the letter dated 5th February, 2005 received by him

from Justice Kurian Joseph, on the basis of letter dated 12th April, 2014 received from whom this petition with respect to the total negligence and apathy of the agencies concerned of the various children parks in Delhi was registered.

2. The Hon'ble Judge in his letter dated 5th February, 2015 has expressed anguish that inspite of this Court being seized of the matter, during the pendency of these proceedings a child aged five years became a victim in one of the children's park in New Moti Nagar, Delhi and another young boy died of electrocution in another park in Delhi. It has further been observed in the letter that if the various directions issued in these proceedings from time to time had been complied with, perhaps the said tragedies would not have occurred. Attention, in the letter, has also been invited to Article 39 (f) of the Constitution of India and to the fact that India is a party to the Convention On The Rights Of The Child adopted by the United Nations General Assembly Resolution of 20th November, 1989 and ratified by India on 11th December, 1992 and as per Article 31 of which Resolution "All children have a right to relax and play, and to join in a wide range of activities".

3. We also are pained to note that the directions issued in our orders dated 16th July, 2014 and 29th October, 2014 remain uncomplied. Our personal awareness of the parks in the vicinity of our residences also does not demonstrate any improvement therein. It is quite evident that even the little which the agencies who have at least filed their responses / affidavits in these proceedings, claim to have done is also only on paper and has not translated on the ground.

4. We are sure that each of the said agencies must be having a huge

budget for maintenance and upkeep of the parks. We wonder where all that money goes.

5. The learned Amicus Curiae has today in Court handed over photographs, of the parks near (i) F-75, Type-II Flats, Vasant Vihar, (ii) Block-72, A to R, Type-II Flats, Vasant Vihar, (iii) Block-67, A to R, Type-II Flats, Vasant Vihar, (iv) Block 45-49, A to R, Type-II Flats, Vasant Vihar and (v) Block-56, A to R, Type-II Flats, Vasant Vihar, stated to have been taken yesterday and which also demonstrate a dismal state, of the play equipment installed therein being corroded, broken, damaged and the very existence whereof poses a danger to little children visiting the park. The parks, instead of appearing to be grassy and green are all shown as patches of *kachcha* uneven land with neither any proper vegetation nor any cleanliness.

6. Mr. Ajay Arora, Advocate for South Delhi Municipal Corporation has handed over in Court an affidavit along with Draft Guidelines for development and maintenance of children parks and photographs of some of the parks. However on earlier occasions such photographs produced before us have been proved by the learned Amicus Curiae to be not demonstrating the true state of affairs but being fudged. We are therefore left with no faith therein. Moreover, the said photographs also do not really show the parks to be in a state as they should indeed be. We are sure that it is not as if there are no provision and funds for proper maintenance of the parks. It appears to be only a case of lack of will of the officials concerned.

7. Finding that inspite of this Court for the last nearly one year having attempted to draw the attention of the authorities concerned to the issue, the

authorities have not woken up from their slumber, we are left with no alternative but to direct Vice Chairman, DDA and the Chairperson of the New Delhi Municipal Committee, South Delhi Municipal Corporation, East Delhi Municipal Corporation and North Delhi Municipal Corporation, to personally apprise themselves of these proceedings and to on or before the next date of hearing file affidavits of compliance of all the directions earlier issued in these proceedings from time to time and to also furnish the details of budget allocations with respect to the said parks and utilization thereof for the last three years. If the same is not done or if the affidavits are not as per the directions or do not contain the proper particulars, we will have to summon the personal appearances of the said officials.

8. The learned Amicus Curiae points out that the Draft Guidelines handed over by the counsel for the South Delhi Municipal Corporation also do not take into account the suggestions made by him before this Court on earlier occasions.

9. The counsel for the South Delhi Municipal Corporation states that revised Guidelines incorporating the said suggestions will be placed on the next date of hearing.

10. The North Delhi Municipal Corporation, in the park in New Moti Nagar in whose jurisdiction a five year old child had died due to injury on head and chest from the iron bar of the swing to, before the next date of hearing, also place a detailed report on the incident and the preventive measures taken thereafter.

11. Similarly, the Municipal Corporation within whose jurisdiction in a park at Vaishali near Pitampura, Delhi Mr. Gaurav Rana, Advocate died

from electrocution to also before the next date of hearing, file a detailed report also giving particulars of the preventive steps taken thereafter.

12. List on 8th April, 2015.

A copy of this order be given *dasti* under signatures of Court Master to all concerned.

CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

MARCH 25, 2015

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