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

+ W.P.(C) No.8557/2015 & CM No.19015/2015

J.K. MITTAL

..... Petitioner

Through: Petitioner-in-person.

Versus

GOVERNMENT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Satyakam, Adv. for R-1 to 4.

Mr. Dhanesh Relan, Adv. for R-5/DDA.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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09.09.2015

1. The petitioner, an Advocate of this Court has filed this petition seeking mandamus to the Police Officials impleaded as respondents No.1 to 4 to provide security of life and property of the petitioner, due to serious threat thereto perceived by the petitioner in the wake of action initiated by the respondent No.5 Delhi Development Authority (DDA) for removal of unauthorized encroachment / construction from government land pursuant to orders in a petition earlier filed by the petitioner.

2. Notice of the petition was issued.

3. A status report has been handed over by the counsel for the respondents No.1 to 4 Police in the Court today and is taken on record.

4. It is not deemed necessary to record any details as threat perception is a question of fact which can only be assessed by investigating agencies and

it is not the domain of Writ Court to consider whether a threat perception exists in favour of a particular person or not. Reference if any required in this regard can be made to, (i) ***Sunil Kumar Bharala Vs. State of U.P.*** MANU/UP/0481/2015 (DB); (ii) ***Gulab Radhwaj Vs. State of U.P.*** MANU/UP/0498/2015 (DB); (iii) ***Dr. Pankaj Tripathi Vs. State of U.P.*** MANU/UP/0558/2014 (DB); and, (iv) ***Om Prakash Rai Vs. State of U.P.*** MANU/UP/0846/2014 (DB). I have in ***Shiv S. Sharma Vs. Union of India*** MANU /DE /1024 /2010 held that the Court cannot foray into determining whether there is any threat to any individual and the same is purely in the domain of executive functions and that the level scale of perception is subjective; what an impartial person adjudicating with an objective view may perceive as a threat of a lesser level scale, is bound to be a threat of a higher level scale to the threatened person. Similar observations are to be found in ***Suhaib Ilyasi Vs. Union of India*** MANU/DE/1153/2002 where also, it was observed that a person may over-react or over-play the threat and the decision of security agencies and experts in this regard is not to be substituted by the opinion either of the petitioner or of the Court unless it is shown that the decision is wholly arbitrary or perverse and has failed to consider the relevant material produced. The Division Bench of this Court in ***Shri Ashwini Kr. Chopra Vs. Union of India*** AIR 2011 Delhi 154 also held that right under Article 21 of the Constitution of India is not absolute and grant of security cover is within the executive domain and it is the executive which is in the best know of when and what sort of security cover be granted to a particular person. It

was further held that no one can claim as a matter of legal right to be given a particular security cover.

5. Reference in this regard can also be made to the judgments in the Arms Act, 1959. A Division Bench of this Court in ***Parveen Kumar Beniwal Vs. Govt. of NCT of Delhi*** MANU/DE/1304/2015 held that a citizen cannot assert a right to hold a firearm licence on the ground of threat perception and that whether there is a perception of threat to the security of a citizen has to be considered by the licensing authority and not by the Courts. A Division Bench of High Court of Andhra Pradesh has taken the same view in ***G. Subas Reddy Vs. State of Andhra Pradesh*** 1997 Cri LJ 1296.

6. The counsel for the respondents No.1 to 4 Police on enquiry states that the said assessment of threat perception is to be carried by Special Cell and would take about a month's time.

7. Accordingly, the petition is disposed of, with the following directions:

- (I) The respondents No.1 to 4 Police to carry out the assessment of threat perception to the life and property of the petitioner and the members of his family residing along with him within the said period of one month and to pass a speaking order thereon and to serve the same on the petitioner;
- (II) Needless to state that if the said assessment finds the petitioner entitled to any protection, the same shall be provided;
- (III) As far as the interregnum period is concerned, the counsel for the respondents, under instructions from the Station House

Officer, Police Station-Shakarpur, Delhi present in Court, has fairly stated that till the said report, it will be ensured that no harm is caused to the petitioner, his property or his family members residing along with him. It is stated that a Picket has already been posted in this regard adjacent to the house of the petitioner.

No costs.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 09, 2015

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