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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8647/2016 & C.M. No.35611/2016**
CENTRAL GOVERNMENT EMPLOYEES RESIDENTS
WELFARE ASSOCIATION Petitioner
Through Mr. Anupam Srivastava and Mr.
Rishikesh Kumar, Advs.
versus
NEW DELHI MUNICIPAL COUNCIL THR CHAIRMAN AND
ORS Respondents
Through Mr. Vivek B. Saharya, ASC for
NDMC.
Mr. Kumar Sameer, Adv. for R-3.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **06.10.2016**

The petitioner is the Central Government Employees Residents Welfare Association. The petition has been filed through Shiv Kumar, President of the said Association. He is aggrieved by the order passed by respondent No. 2/New Delhi Municipal Council (dated 31.08.2016) whereby the application of the petitioner seeking permission to hold Ramleela and Dusshera festival between 02.10.2016 up to 11.10.2016 at Jhanda Park, D-Block, Netaji Nagar, New Delhi was refused.

The averments in the petition disclose that the petitioner vide his letter dated 07.10.2015 had made an application before respondent No. 1 & 2 for booking the aforementioned park for the purpose of organizing Ramleela and Dusshera between 02.10.2016 to 11.10.2016. The eligibility criteria for the purpose of booking a park

are noted in the letter No. D/2065/LWD/14 dated 08.12.2014 of respondent No. 1. Information was also obtained under the RTI Act and specific queries were raised by the petitioner qua the procedure for booking the said park. These were answered. The petitioner has fulfilled all eligibility criteria. Although the version of the respondents was that an NOC from the Residents Welfare Association (RWA) has to be obtained but the petitioner vide his communication dated 15.03.2016 informed the respondents that as on that date, there was no functional RWA in place in D-Block and therefore the NOC could not be obtained. The petitioner had paid the requisite fee of Rs.11,000/- as booking amount. He has been granted permission vide letter dated 14.03.2015 to organize the Ramleela and Dusshera between 02.10.2016 to 11.10.2016. However, the impugned order was passed thereafter (on 31.08.2016) cancelling his booking without any rhyme or reason; this is against the principles of natural justice. The petitioner thereafter learnt that this park has been booked in the name of respondent No.3. There is no explanation for this arbitrary attitude of the respondents. This petition has been filed seeking a prayer that the order dated 31.08.2016 be set aside.

Record shows that this petition has been filed on 24.09.2016 but it was listed before this Court on 26.09.2016. This was almost after one month from the date when the order impugned has been passed. Notice was issued to the respective parties.

The response of respondents No. 1 and 2 is relevant. They have admitted that the petitioner had made an application for booking of

the aforementioned park and had informed the respondents that as on that date, there was no RWA functional in the D-Block, Netaji Nagar. Accordingly, the permission had been granted to him to hold the Dusshera festival. This was on 14.03.2016. On 29.06.2016, an elected RWA at D & C S-Block was made functional. Respondent No.3 who had organized the Ramleela and Dusshera festival in the same area even last year had obtained NOC from the RWA of D & C S Block on 22.08.2016. The petitioner was informed that he had misled the authorities about the jurisdiction of the RWA as DOPT vide their letters dated 08.08.2016, 09.08.2016 as also 22.08.2016 had clarified as under:-

“As regard the power of Area Welfare Officer to issue NOC for booking of park, Area Welfare Officer is appointed by the Department to provide link between the Central Govt. Employee Residents residing in various colonies and concerned civil and other agencies providing services to them”

Contention of the respondent being that although the application of the petitioner had been filed prior in time but had not been recommended by the Area Welfare Officer which was the mandate in the absence of there being a functional RWA. Therefore the letter according permission to the petitioner had been cancelled and permission had been granted to respondent No.3 (who had obtained an NOC from functional RWA).

Respondent No.3 has also filed a response. His submission is that he has got permission fairly and no interference is called for in

the order passed in his favour. His additional submission is that the Ramleela is already in progress and today being 06.10.2016, there are only five days left to conclude the function and there would be no useful purpose served on either side if the permission already accorded to him is cancelled at this stage.

On the proposal put by the Court on the count that the respondent would have no objection if the petitioner organises the Ramleela/Dussehra celebrations next year; In this eventuality, the respondent would be allowed to continue with the celebrations this year; this proposal has however not been accepted by the petitioner who seeks an order on merit.

This Court notes that the petitioner had applied on 09.10.2015 for permission to hold Ramleela at the D-Block, Jhanda Park, Netaji Nagar, New Delhi. On that date, there was admittedly no RWA functional. The petitioner had also intimated to the respondents that no RWA is functional at that point of time. This submission is correct. However the DOPT letter (noted supra) clearly provides that in the absence of there being a functional RWA, permission from the Area Welfare Officer (AWO) has to be obtained. This was not done. A specific query has been put to the petitioner on this count to which he admits that he has not complied with this direction. His submission is that the RTI query which laid down the eligibility criteria had not delineated that he had to take any permission from the AWO. This submission of the petitioner is noted only to be rejected. The queries which had been put to the RWA (as
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is evident from the RTI information obtained) were four questions. The answers were only qua these specific questions.

Queries No. 2 & 4 were as follow:-

“2. Kindly provide the details policy/criteria in respect of the prescribed provision for booking by the NDMC for the parks situated in Netaji Nagar which are being booked under the prescribed procedure by the NDMC.

Xxxxxxx

4. Kindly provide be detailed in information about which parks are booked by the NDMC for the purpose of marriage and other religious program and for which category of person.”

The answers to these queries inter-alia read as under:-

“Only Jhanda Park is reserved for Netaji Nagar resident and rocedure for reserving parks is as under:-

- 1 Application form can be submitted before the Director (Welfare) NDMC Room No.1210, 12th Floor, labour welfare department.*
- 2 The proof of residential address should be enclosed with application form and NOC if the regional if residential welfare committee is incorporated.*
- 3 Applications are reserved on the basis of first come and receive after approval by the Agriculture Department.*
- 4 Jhanda park in Netaji Nagar is being reserved for religious social and marriage occasion free of cost for the resident of Netaji Nagar.*

After obtaining no objection from the local residential welfare society can be get reserved by the NDMC, Netaji Nagar, Jhanda Park.”

The answers to the aforetoed queries show that an NOC from the local residential welfare society had to be obtained. Annexure R-4 contains the inter-se communication from the Department of Personnel and Training, Ministry of Personnel (DOPT), Public Grievances and Pensions. These communications which have been mentioned in the counter affidavit of respondent No. 1 & 2 dated 08.08.2016, 09.08.2016 & 22.08.2016 (page 20 of the counter affidavit of respondent No. 1 & 2) clearly states that there was no association recognized by the Department qua the D-Block, Netaji Nagar, New Delhi. The AWO was authorized to issue an NOC for booking of a park and he had been appointed by the Department to serve as a link between the Central Government Employee Residents in various colonies and the civic agencies providing services to them. The communication dated 22.08.2016 (page 21 of the counter affidavit of respondent No. 1 & 2) is still more clarificatory. It was noted that the DOPT vide their letter dated 05.08.2016 had accepted the election results dated 29.06.2016 where an elected body of the D & CS Block, Netaji Nagar had been accepted.

This aforementioned narration makes it clear that the petitioner had not complied with the mandatory requirement which was that in the absence of there being a functional RWA (as was so in the instant case), an NOC had to be obtained from the AWO. This was not done.

This had led to the communication dated 31.08.2016 being issued against the petitioner. His booking was thus rightly cancelled as in the absence of there being a functional RWA; the NOC from the AWO was necessary. On 29.06.2016, a newly elected RWA of the D&CS Block had come into the picture. The application of respondent No.3 was considered; he had obtained the requisite NOC from this elected RWA; respondent No.3 had accordingly been granted permission to hold the Ramleela and Dusshera festival in the said park. This Court notes that this communication to respondent No.3 is dated 31.08.2016. On the same date, the petitioner has been informed about the cancellation of his booking. The petitioner has approached this Court after one month. This Dusshera festivity has already progressed and out of 10 days, half the festival period is over. This Court has also been informed that the children in the local locality are enjoying the Ramleela festivities and they are awaiting the culmination of the program which would be the climax day of 11.10.2016 when Dusshera would be celebrated. It is also not the case of the petitioner that the local residents are not happy with the manner in which the celebrations are being conducted.

This Court is therefore not inclined to pass any order on this petition. Dismissed.

INDERMEET KAUR, J

OCTOBER 06, 2016

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