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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11668/2015

ITI KANUNGO

..... Petitioner

Through: Mr.Rahul Kumar, Adv. with
Mr.Tushar Chauhan, Adv.

versus

THE CHIEF SECRETARY GOVT.

OF NCTD AND ANR

..... Respondents

Through: Ms.Prabhsahay Kaur, ASC for
GNCTD.
Mr.Arvind Kumar Sharma, Adv. for
R-2/EDMC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

07.12.2016

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1. The present petition has been filed as a Public Interest Litigation with the following prayer:

“In view of the submission made hereinabove, it is prayed that:

- 1) This Hon’ble Court maybe pleased to issue a writ in the nature of mandamus that road re-carpeting must only be done without disrupting the spatial geography of the locality after removing the layer already existing there.
- 2) This Hon’ble Court may further pass such other and further orders as are deemed fit and proper in the facts of the case.”

2. The grievance of the petitioner is that when the roads are being re-carpeted without scratching off the previous layer, the level of the roads rise higher and rather than serving the purpose it endangers life and adversely affects the other existing structures such as houses, commercial buildings etc., as they do not move up in the same proportion. Along with the

petition, certain newspaper reports have been filed to show that the Municipal Corporation of Chandigarh had decided to introduce the Geographical Information System in developmental works relating to roads, and to provide a holistic approach in the context of carpeting and re-carpeting.

3. In response to the notice issued to the respondents, the respondent No.2/East Delhi Municipal Corporation filed a short affidavit denying the allegations made in the writ petition and explaining as under:

“3. It is humbly submitted that the answering respondent is a local body and maintaining/improving/strengthening the internal roads/lanes/streets of the area which are fall under the jurisdiction of the answering respondent. It is further submitted that the specifications as framed by Central Public Works Department are being followed by the respondent, hence the question of non-following of the policy as well as in writ petition under reply does not arise at all. As per IRC-82 guideline “periodic renewals consist of the provision of a surfacing layer over the pavement at regular intervals of time, so as to preserve the required characteristics of the pavement and offset the wear and tear caused by traffic, weathering, etc. In effect periodic renewals represent preventive maintenance which is needed to prevent deterioration of the pavement characteristics and to ensure that initial qualities are kept up for the future requirements of traffic during the design life of the pavement”.... The answering respondent is statutory duties as provided in Delhi Municipal Corporation Act as well as law of land. It is submitted that the present PIL have been filed, but the petition only to settled her personal grievances as reflect from the averments of the petition under reply. The present writ petition does not disclose any violation which affect the society as whole. Hence, the present petition is liable to be rejected.

4. It is submitted that the lane in front of house of the plaintiff was in damage condition. The NIT was flouted for the work of improvement/strengthening of internal roads by providing dense carpeting of Pocket-I and Pocket-II, Mayur Vihar, Phase-I AC-55, Shahdara, South Zone. The dense carpeting work already has been done to strengthen existing surface of the lane in question by way laying 40 mm thick Dense Bituminous Concrete as per specification

of CPWD after following due process in said lane in Mayur Vihar, Phase-I, in front of the house of petitioner.

4. In her rejoinder the petitioner sought to contend that prior to periodical renewal, the requirement as stipulated under Clause 3.2 of the IRC-82 has to be followed and since the local Counsellor has been advertising that the carpeting of the roads has been done by her, it cannot be presumed that the conditions as provided in the IRC-82 Guidelines have been followed.

5. Having heard the learned counsels for both the parties and having taken note of the contents of the affidavit of the Respondent No.2, more particularly that the dense carpeting work has already been done to strengthen the existing surface of the lane in Mayur Vihar Phase I, as per the specification of CPWD and so far as Pocket I and Pocket II of Mayur Vihar are concerned, tenders have been floated for the improvement/strengthening of internal roads, we consider it appropriate to close the petition for the present.

6. In case the petitioner is still aggrieved an appropriate representation be made to the respondent No.1 in which event the necessary enquiry shall be conducted by a competent authority/department and appropriate action be taken in accordance with law, if the allegations made by the petitioner are found to be true.

7. Accordingly, the writ petition is disposed of.

CHIEF JUSTICE

DECEMBER 07, 2016/pmc

SANGITA DHINGRA SEHGAL, J