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

Date of Order: 25th May, 2017

+ CONT.CAS(C) 224/2004 & CM Nos.11081/2011, 14689/2011,
5058/2016 & 6396/2017

KUSTH ASHA DEEP FEDERATION Petitioner

Through: Dr.Brahm Dutt and Mr.Vivek
Kumar, Advocates

Versus

AJOY K. PAITANDY Respondent

Through: Mr. Ravinder Sethi, Senior
Advocate as Amicus Curiae
Mr.Siddhartha Shankar Ray,
Advocate for Department of Social
Welfare.
Ms.Shobhana Takiar, Advocate for
DDA.
Mr.Nitin Jain, Advocate for
DUSIB.
Mr.J.L.Gupta, Dy. Commissioner,
Shahdara, North Zone
Mr.Ajjay Aroraa, Mr.Kapil Dutta
and Ms.Diksha Lal, Advocates for
East DMC

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

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Violation of order of 30th July, 2003 in WP(C) 3998/96 is alleged
in this contempt petition by petitioner who is *Kusth Asha Deep*

Federation. Vide aforesaid order of 30th July, 2003, a Division Bench of this Court had formed a Committee comprising of nine members, who was to submit a report as to whether the lepers are being benefited under the schemes or not. The Committee was given liberty to take assistance from the N.G.Os and was to report to the Court about public property being occupied unauthorisedly and the report was to be submitted within three months of the passing of the aforesaid order.

It appears that in compliance of orders of 30th July, 2003 the report was not filed by the said Committee which led to filing of this contempt petition. During the pendency of this contempt petition, various interim orders have been passed to ensure that positive steps are taken to improve the conditions in the Leprosy Home in Tahirpur, Shahdara, Delhi and in six other leprosy colonies, whose details are given in order of 26th February, 2007. Ms.Sangeeta Chandra, Advocate was appointed to survey the work done in terms of the orders passed in this contempt petition from time to time.

A bare perusal of interim orders of 24th May, 2007, 18th January, 2011, 6th March, 2012, 16th August, 2012 and 12th December 2012 reveals that effective compliance of the directions issued vide order of 30th July, 2003 was not being made and so vide order of 19th July, 2013, Mr.Ravinder Sethi, learned Sr. Advocate was appointed as Court Commissioner to go into various aspects and it was directed that the complete records be made available to him. On 13th August, 2014, the learned Court Commissioner had disclosed that several aspects required a

response from the respondents and areas on which the response was required from the respondents have been spelt out in the aforesaid order of 13th August, 2014. It is also noted in the aforesaid order of 13th August, 2014 that the status report filed by the Deputy Commissioner, North East Zone of 18th September 2009 revealed a dismal state of affairs in the Leprosy Homes.

It is evident from the order of 2nd July, 2015 that the Leprosy Home in Tahirpur, Shahdara was under the control of East Delhi Municipal Corporation and in the counter affidavit filed by East Delhi Municipal Corporation, it was disclosed that encroachments in the said Leprosy Home were removed and there were no unauthorized construction or encroachments in the said Leprosy Home and the concerned officials of East Delhi Municipal Corporation were directed to ensure that the Leprosy Home at Tahirpur, Shahdara is not trespassed or encroached. The Secretary, Department of Social Welfare, Govt. of NCT of Delhi was directed to convene a meeting of all the concerned officials including Commissioner of East Delhi Municipal Corporation within three weeks to chalk out future strategy and to ensure the compliance of order of Division Bench in letter and spirit. Action taken report was taken on record. However, on 21st December, 2015 it was brought to notice of the Court by Mr. Ravinder Sethi, learned Sr. Counsel that not only commercial establishments were found running in the leprosy colony but also large numbers of properties were found to be unoccupied and locked. In such a situation, my esteemed brother Manmohan, J. vide order of 21st December 2015 had directed that this matter be placed before the

Division Bench alongwith WP(C) 11616/2015. The Division Bench in its order of 7th January 2016 had directed this petition to be placed before this Bench for the reason that there was no remote connection with the subject matter of this petition and aforesaid W.P.(C) 11616/2015. It is noted in the order of 8th January 2016 that the present contempt petition is pending for more than ten years but little has been done by the officials of Delhi Government, other than passing the buck from one department to another and last opportunity was granted to Delhi Government and East Delhi Municipal Corporation to take appropriate action in accordance with law to ensure that the trespassers and encroachments are removed from Leprosy Home in Tahirpur, Shahdara. Vide order of 11th February 2016, a detailed response was sought from the respondents No.1 and 2. Vide order of 27th April 2016, Department of Social Welfare of Govt. of NCT of Delhi was directed to conduct a fresh survey and to identify the unauthorized occupants with a direction that bona-fide residents of this colony be not disturbed. It finds mention in the order of 3rd October, 2016 that Department of Social Welfare, Govt. of NCT of Delhi, is the owner of the land where leprosy patients are housed and Department of Social Welfare was directed to take the requisite action.

In the order of 14th December 2016 this Court has noted with concern that there is no coordination between the concerned SDM and Department of Social Welfare, Govt. of NCT of Delhi and so the Chief Secretary and the Secretary of Department of Social Welfare, Government of NCT of Delhi were called upon to ensure the compliance of the orders passed by this Court. Vide order of 16th February, 2017,

Department of Social Welfare, Govt. of NCT of Delhi was directed to file its action taken report. Finally, vide last order Mr.Ravinder Sethi, learned Amicus Curiae was called upon to evolve a consensual mechanism by which the present contempt petition can be disposed of.

Report dated 23rd May, 2017 has been submitted by learned Amicus Curiae and an affidavit has been filed by Sr. Superintendent of Department of Social Welfare, Govt. of NCT of Delhi. There are few pending applications seeking impleadment, directions etc.

A bare perusal of the report submitted by learned Amicus Curiae reveals that there was a consensus on forming a new Committee comprising of Deputy Director, Department of Social Welfare, Govt. of NCT of Delhi and six other members, while there was a dissent by the Deputy Director of Department of Social Welfare, Govt. of NCT of Delhi, who had pointed out that the Committee is already in place and so there was no requirement of forming a fresh Committee. The report submitted by learned Amicus Curiae recommends the formation of a fresh Committee and the names of members of the Committee have been disclosed in paragraph No.4 thereof. In the affidavit filed on behalf of Department of Social Welfare, Govt.of NCT of Delhi, it is asserted that constitution of a new Committee may not be fruitful as there are three such Committees already in place.

Upon hearing and on perusal of order of 30th July, 2003 and the various orders passed during the pendency of this petition and status reports filed from time to time and the report of the learned Amicus

Curiae as well as the affidavit filed on behalf of Department of Social Welfare, Govt. of NCT of Delhi, I find that it would be appropriate if the Committee as suggested by learned Amicus Curiae is put in place with modification only to the extent that this Committee would be headed by Special Director, Department of Social Welfare, Govt. of NCT of Delhi and Deputy Commissioner, Shahdara, North Zone of East Delhi Municipal Corporation would also be a member, in addition to the eight members as already suggested by learned Amicus Curiae in his report of 23rd May, 2017.

Let the first meeting of the newly constituted Committee take place in the first week of July, 2017 and thereafter after every two months. To ensure that the periodical meetings of the Committee are not deferred on account of pre-occupation of the Special Director, Department of Social Welfare, Govt. of NCT of Delhi, Mr.R.K.Saini, Advocate shall chair the meeting as and when Special Director, Department of Social Welfare, Govt. of NCT of Delhi is not available and the quorum of the meeting would be of at least four members. The implementation of recommendations made by this Committee shall be monitored on fortnightly basis by a Nodal Committee comprising of Mr. R.K. Saini, Advocate, Dr.Brahm Dutt, Advocate and Ms. A. Madhavi, Dy. Director, Department of Social Welfare, Govt. of NCT of Delhi. It is also agreed upon by both the sides that venue of the meeting shall be the office of the Special Director, Department of Social Welfare, Govt. of NCT of Delhi. Quarterly reports would be submitted by Special Director, Department of Social Welfare, Govt. of NCT of Delhi to this Court from time to time.

Upon hearing, CM No.20181/2017 is disposed of while noting that the relief sought in this application is beyond the purview of this contempt petition and so applicant may avail of remedies as available in law. In view of disposal of contempt petition in the aforesaid terms, other pending applications no longer survive for consideration.

While placing on record the appreciation for the efforts put in by Mr.Ravinder Sethi, learned Senior Counsel, this petition is disposed of.

Copy of this order be given DASTI to learned counsel for the parties.

(SUNIL GAUR)
JUDGE

MAY 25, 2017
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