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

+ **W.P.(C) 339/2017**

BRIG. (RETIRED) BRIJ MOHAN KHANNA

..... Petitioner

Through Mr.Pramod Saigal and Mr.Jaskaran
Singh, Advocates.

versus

SOUTH DELHI MUNICIPAL CORPORATION (SDMC)

..... Respondent

Through Mr.Roshan Lal Goel and Ms.Anju
Gupta, Advocates for SDMC/R-1.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **16.01.2017**

W.P.(C) 339/2017 & C.M. No.1561/2017

Petitioner is stated to be an 86 year old senior citizen. He is aggrieved by the fact that his garage i.e. garage no.26G, H-Block, Saket, New Delhi had been sealed by the Municipal Corporation. This sealing order has been passed on 18.6.2012. Admittedly, the petitioner has not approached the Appellate Body i.e. the ATMCD. He submits that he has however been making several representations to the Department on this score. The last representation made by the petitioner to the Department is dated 18.4.2016. His submission is that this representation has not been answered till date.

On advance notice, learned counsel for the Department/SDMC/respondent has put in appearance. His

submission is that the case of the petitioner is time barred and he should have approached the ATMCD within the time which has been afforded by the statute. Noting the above submission (that the representation dated 18.4.2016 has not been answered by the Department) let the same be answered in accordance with law. On the order being passed by the Department, the petitioner would be at liberty to get his grievances addressed.

At this stage, learned counsel for the petitioner submits that in similar proceedings where the case of the petitioners in those cases had been time barred and they had not been able to approach the ATMCD in time a direction has been given by the Apex Court enlarging the time period to approach the ATMCD. He fervently prays that a similar order also be passed in this case.

Learned counsel for the petitioner has placed reliance upon the order passed by the Apex Court on 15.12.2016 in IA No.2768 in I .A. no.22 and I.A. no.22 in Writ Petition(s) (Civil) No.. 4677 of 1985 M.C.Mehta Vs. Union of India & Ors. wherein the Apex Court had inter alia noted as under:

“4. The applicants in the aforementioned interlocutory applications have approached this Court seeking an extension of time, so as to approach the concerned Tribunal on account of the fact, that the concerned Tribunal was not approached within the stipulated 30 days’ time depicted in this Court’s order dated 30.04.2013, or the extended time permitted vide order dated 31.10.2013.

5. Having given our thoughtful consideration to the issue in hand, we hereby extend the period to approach the concerned Tribunal by

two weeks from today, for those who have not filed the appeal. For those who have already filed appeals beyond the time prescribed, the delay is condoned. The above-mentioned relief is being granted to the applicants, subject to payment of Rs.25,000/- (rupees twenty five thousand) as costs. The above mentioned costs shall be deposited by each of the applicants with the Supreme Court Advocates-on-Record Welfare Trust within two weeks from today. ”

Noting the above approach of the Apex Court, this Court is of the view that the case of the petitioner should also be considered sympathetically. If the case of the petitioner is decided in the negative, he will be permitted to approach the ATMCD subject to the aforementioned direction given by the Apex Court.

Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

JANUARY 16, 2017

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