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

+ **W.P.(C) 2218/2017 and CM No. 9689/2017**

RAJESH SACHDEVA

..... Petitioner

Through: Mr Ankit Jain, Mr Sarvesh Rai and
Mr A.K. Rajgopal, Advocates.

versus

SUB-DIVISIONAL MAGISTRATE (VASANT
VIHAR) & ANR

..... Respondents

Through: Mr Devesh Singh, ASC (Civil)
GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **30.11.2017**

1. Issue notice. The learned counsel for the respondent accepts notice.
2. The petitioner has filed the present petition impugning an order which was pasted on the door of the petitioner's property on 04.03.2017 (hereafter 'the impugned order'). By virtue of the impugned order, the petitioner has been held liable to pay compensation of ₹50,000/- on account of undertaking the activity of "*dust, rori etc. and construction house*".
3. Admittedly, the petitioner was neither given any notice of imposition of such compensation nor is there any material on record to establish that the petitioner was found violating any of the pollution laws. The learned counsel for the respondent submits that an inspection was conducted by the Patwari and the inspection report shows that dust and *rori* were lying outside the

petitioner's house bearing no.C-9/9722, Vasant Kunj, New Delhi.

4. It is admitted that the petitioner has been carrying on construction activity at the premises in question. However, it is the petitioner's case that the construction was completed and at the material time, the petitioner was only carrying out interior works and, therefore, there was no question of any dust, *rori* or any other construction material being placed outside the house.

5. The above contention is not persuasive. Construction material is also used in carrying out interior works. It is not disputed that if the construction material was found at site, the petitioner would be liable to pay the compensation as per the orders passed by the National Green Tribunal.

6. However, this Court finds merit in the contention that the petitioner was not provided adequate notice and there is insufficient material to establish that dust and *rori* were found outside the petitioner's residence.

7. In view of the above, the impugned order is set aside.

8. Having stated the above, it is also necessary to observe that a fair and efficient procedure to ensure that persons who are found to be polluting the area are swiftly dealt with is required to be put in place. Accordingly, it is suggested that when such inspections are carried out, the inspecting party would take photographs, which would obviate any further challenge as to whether any polluting activity was found at the site. In the event it is possible to hear the concern party at the time of inspection or immediately thereafter, such course ought to be adopted.

9. In the circumstances, it is suggested that the Divisional Commissioner

formulate a standard procedure to be followed by the inspecting teams carrying out inspections for detecting polluting activities and ensure that information as to such procedure is disseminated to the inspecting teams.

10. The petition and pending application are disposed of with the aforesaid observations.

11. Order *dasti*.

NOVEMBER 30, 2017
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VIBHU BAKHRU, J