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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8824/2015 & C.M.No.16611/2016 & C.M. No.39574/2016**
MUKESH KUMAR

..... Petitioner

Through Mr. Vivek Sharma, Adv.

versus

EAST DELHI MUNICIPAL CORPORATION AND ORS

..... Respondents

Through Mr. G.D. Mishra, standing counsel for
R-1 to R-4 along with Assistant
Director, Vigilance.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **11.01.2017**

The affidavit by way of a status report of respondents No. 1 to 4 has been taken on record. In this affidavit, it has been stated that the allegations made by J.C. Jain were found substantiated against Dr. Ajay Handa, Deputy Health Officer, Sh. K.K. Gupta, License Clerk (Health Department) and Sh. Gulshan Manocha, Public Health Inspector (since retired) and major regular departmental action has been proposed by the Competent Authority against the aforementioned persons. The Competent Authority is seized of the matter and the file has been referred to him after taking advice from the CVC.

Learned counsel for the petitioner is however aggrieved. His submission is that proceedings under Section 340 of the Cr.PC should be initiated against the Department for misleading the Court. His submission is that on the earlier complaint of J.C. Jain, Dr. Ajay

Handa had been exonerated but a wrong statement has been made by the Department that it was on the complaint of the present petitioner (Mukesh Kumar) that Ajay Handa has been exonerated. This is not a correct fact. This has been with a view to mislead the Court. To substantiate this proposition, learned counsel for the petitioner has drawn attention of this Court to the averments made by the respondent in the counter affidavit as also in the Action Taken Report submitted by the Department. This Court has noted the submission of the learned counsel for the petitioner.

This Court is not in agreement with the submission made by the learned counsel for the petitioner. This Court notes that on an earlier date i.e. on 05.01.2012, the petitioner had made a complaint to the Department qua certain alleged illegal licenses having been issued by the Health Department to one Madras Cafe and other related eateries. A complaint dated 08.01.2013 had also been submitted by one J.C. Jain. Acting on the aforementioned complaint i.e. 05.01.2012 of the petitioner Mukesh Kumar and the complaint of J.C. Jain dated 08.01.2013, the Department was of the view that no action is required to be taken against the officers of the Department as these licenses have probably been issued inadvertently and under a bona-fide mistake. The case against Ajay Handa and others stood closed qua the aforementioned complaints. This Court has further been informed that pursuant thereto, another complaint dated 13.02.2016 had been submitted by J.C. Jain. Substance was found in that complaint. Major penalty against Ajay Handa and the aforementioned persons (supra) had been proposed pursuant to that complaint.

This Court thus notes that there is no misleading statement which has been made by the respondent Corporation for which even notice is required to be issued under Section 340 of the Cr.PC. This application is accordingly dismissed.

The additional submission of the learned counsel for the respondent is noted which is to the effect that the petitioner is a resident of Shahjahan Pur and in fact he is not related to the aforementioned land; this is a personal vendetta which he has against the owner of Madras Cafe and he is trying to vent this out by way of this petition. This Court notes this submission but need not delve any further into this as nothing else survives in this petition which is disposed of accordingly.

INDERMEET KAUR, J

JANUARY 11, 2017

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