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

+ **W.P.(C) 8333/2018**

GOPAL HEIGHTS OCCUPANTS WELFARE
ASSOCIATION (REGD.)

..... Petitioner

Through Mr Kirti Uppal, Senior Advocate with
Mr Nitin Mittal, Mr Pranvir Sethi, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through Mr Santosh Kr Tripathi, ASC, GNCTD
with Mr Shashank Tiwari, Advocate.
Mr Manish Srivastava, Advocate for R3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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09.08.2018

CM 31975-31976/2018

1. Allowed, subject to all just exceptions.
2. The applications are disposed of.

W.P.(C) 8333/2018 & CM APPL. 31974/2018

3. Issue notice. The learned counsel appearing for the respondents accept notice.
4. The petitioner has filed the present petition, *inter alia*, impugning an order dated 31.07.2018 passed by the Chief Fire Officer (respondent no.2) directing the disconnection of utilities (electricity and water supply) to the building named 'Gopal Heights' which is located at Plot No. D-9, Netaji Subhash Place, Pitam Pura, Delhi-110034. The said building comprises of

basement plus ground plus thirteen upper floors. The impugned order was passed as respondent no.2 was satisfied that the building in question was not safe for occupancy.

5. Mr Kirti Uppal, learned Senior Counsel appearing for the petitioner contends that the said impugned order was passed contrary to Rule 39 of the Delhi Fire Service Rules, 2010, which entitles the petitioner for at least 90 days to take the necessary measures as required under Section 34 (1) of the Delhi Fire Service Act, 2007.

6. It is seen that respondent no.2 had issued a notice dated 06.07.2018 calling upon the petitioner to show cause as to why the building in question not be declared unfit for continuance of occupancy from fire safety point of view. The petitioner had responded to the said show cause notice by a letter dated 20.07.2018 clearly stating that all safety measures mentioned in the letter dated 01.12.2017 had been complied with and were maintained in good working conditions. Respondent no.2 was further requested to inspect the building and issue a compliance certificate.

7. A plain reading of the impugned order dated 31.07.2018 indicates that respondent no.2 has completely ignored the aforesaid response. It is expressly mentioned in the impugned order that 14 days time was allowed for submission of reply to the show cause notice; however, the owner/occupants had failed to submit any reply. This statement appears to be erroneous, as a response was submitted to the show cause notice on 20.07.2018 (i.e. prior to 31.07.2018).

8. In view of the above, the impugned order is set aside and the respondent no.2 is directed to examine the response submitted by the

petitioner and take an appropriate decision. It may be apposite for respondent no.2 to re-inspect the building in question to satisfy itself as to the compliance of the safety requirements as claimed by the petitioner.

9. Pending such decision, the utilities (electricity and water supply) shall be reconnected.

10. The petition is disposed of in the above terms. The pending application also stands disposed of.

11. Order *dasti* under the signature of Court Master.

VIBHU BAKHRU, J

AUGUST 09, 2018

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