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

Date of decision: 12th November, 2018

+ W.P.(C) 12106/2018 & CM No.46973/2018

PURVANCHAL CHATHH PUJA EVEM SAANSKRITIK SAMITI
THROUGH ITS GENERAL SECRETARY SH. RAMESHWAR
MATHTO Petitioner

Through: Mr. Anupam Srivastava,
Ms. Niharika, Adv.

versus

DELHI DEVELOPMENT AUTHORITYRespondent

Through: Mr. Dhanesh Relan, SC-DDA
with Ms. Komal Sorout and
Ms. Gauri Chaturvedi, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

1. The petitioner, Purvanchal Chathh Puja Evam Saanskritik Samiti, a society registered under the Societies Registration Act, 1860, claims that one of its objectives is organisation of the Chathh Puja and cultural programme in Mahabir Budh Jayanti Park, Nasirpur, Dwarka, Delhi (hereinafter referred to as “the Park”). It is not in dispute that the Chathh Puja, this year, is scheduled for tomorrow i.e. 13th November, 2018.

2. The petitioner has sought to make out a case, in the writ petition, that it has been organising Chathh Puja, in the park, for the

years 2016 and 2017, and has been allotted land, by the respondent-DDA, for the said purpose.

3. Learned counsel for the petitioner has drawn my attention to the Policy of the DDA, for “Streamlining of the Procedure and Fee Structure for Temporary Allotment of Open Spaces/Community Halls of the DDA for Various Functions”, as contained in its circular dated 27th April, 2016. Para 5(iv), of the said Policy permits booking to be done, for such functions, with the DDA, between the 5th day and the 120th day in advance of the function, subject to availability, on first come first serve basis, for vacant land and community halls. The petitioner submits that, in accordance with the said Policy, it applied to the respondents, on 16th July, 2018, for permission to conduct the Chathh Puja in the aforementioned park, which covers an area of 1000 sq. mtrs.

4. In response thereto, the DDA wrote to the petitioner, on 4th September, 2018, stating that a complaint had been received, against the petitioner, in the office of the DDA, and that a copy thereof was enclosed with the said communication. The petitioner was requested to clarify the points mentioned in the complaint failing which, it was stated, his application for booking of the Budh Jayanti Park for holding Chhath Puja would not be processed and would be rejected.

5. Learned counsel appearing for the petitioner submits that, though the said communication stated that a copy of the complaint was enclosed therewith, he replied, *vide* communication dated 19th

September, 2018, pointing out that the letter dated 4th September, 2018 (*supra*) did not contain any enclosure. The request for confirming of the booking of the petitioner was reiterated.

6. Learned counsel for the petitioner further submits that it was only towards the beginning of October that the petitioner received a copy of the aforementioned complaint, which was addressed by one Satish Dhankar, claiming to be an advocate.

7. For reasons best known to the petitioner, no copy of the said complaint is forthcoming on record. Be that as it may, the petitioner wrote, on 5th October, 2018, to the DDA, providing a para wise reply to the allegations contained in the said complaint. It was also pointed out, therein, that the advocate Satish Dhankar, who had authored the complaint, was a person who was removed from the Executive Committee of the petitioner.

8. On 16th October, 2018, the DDA addressed a second communication to the petitioner, pointing out that no permission, for booking of the park for conducting of Chathh Puja, in favour of the petitioner, had been received from the office of the Superintendent Engineer (HQ) of the DDA, who was the officer who was required to grant the said permission. Subsequently, the petitioner submits, though no further response was received from the DDA, a tweet, which was reflected on the Twitter handle of the DDA, indicated that the area in the Budh Jayanti Park, over which the petitioner had

wanted to hold the Chathh Puja, had been allotted to an NGO named Little Child Hope.

9. This writ petition, which is filed one day prior to the holding of the Puja, contains the following prayers :

“(i) Pass an order to issue a writ of mandamus or any other writ to direct the Respondent to grant permission to the Petitioner to conduct celebration of Chathh Puja at the site admeasuring 1000 square meter in the said park where the celebrations have been conducted by the Petitioner for the last two years;

(ii) In the alternative, pass an order granting permission to Petitioner to conduct celebration of Chathh Puja on area admeasuring 1350 square meters of the said park on 13.11.2018;

iii) Pass an order to direct the Respondent to decide the application of 16.07.2018 by 12.11.2018;

iv) Pass any other such order which this Hon'ble Court deems fit and proper in the facts and circumstances of the present case.”

10. This Court is, unfortunately, unable to grant any relief to the petitioner. The petitioner, in the opinion of the court, has been completely indolent in canvassing what it perceives to be its right. An application for permission to hold the Puja was sent by the petitioner as far back as on 16th July, 2018. It does not appear that any steps were taken by the petitioner till, 4th September, 2018, when the DDA wrote to the petitioner informing it about the complaint received against it. Though the petitioner submits that the complaint was not enclosed with the letter, apparently the petitioner chose to wait till 19th September, 2018, before informing the DDA thereof. Even thereafter,

according to the submissions of the learned counsel for the petitioner, no steps were taken to ensure that a copy of the complaint was received by the petitioner till October, 2018, when it was so received. The petitioner, thereupon, represented to the DDA on 5th October, 2018 and followed it up with another representation on 8th October, 2018. The respondent, to the said representation, received on 16th October, 2018, clearly stated that, as no permission had been received, for booking of the park in favour of the petitioner, its request could not be acceded to. The petitioner, apparently, did not seek recourse to any judicial remedy even at that stage. The petitioner now seeks to bank upon a tweet dated 29th October, 2018, which mentions the allotment of the area in question to another organisation named Little Child Hope, to galvanize this Court into action, on a day prior to the Puja.

11. Interestingly the organisation i.e. Little Child Hope, to whom the right to hold the Puja has been granted, has not even been impleaded in these proceedings.

12. Be that as it may, it is not possible for this Court to, having been moved by the petitioner one day in advance of the holding of the Puja, grant any relief. Significantly, no interim application has been filed with this petition. Learned counsel for the petitioner submits, understandably, that there could be no question of filing of the interim application as the Puja is to be held tomorrow.

13. This Court is in no position to come to the aid of the petitioner. The entire area in question stands allotted to another party, who has not been impleaded in these proceedings.

14. There is, moreover, nothing to indicate that the petitioner was, in fact, the first person who had applied for being allotted the said area, so as to invoke the first come first serve principle. Learned counsel for the petitioner is also unable to assist the court in this regard, stating that it would be for the respondent to clarify as to whether the organisation to whom the area has been allotted had, or had not, applied prior any point of time to the petitioner.

15. While it is difficult to accept the proposition that this Court can be used as a forum to hold any such roving inquiry, in any case, the Puja being scheduled for being held tomorrow, learned counsel for the petitioner candidly submits that, if relief is not granted today, the entire proceedings would be rendered infructuous. Granting of any relief to the petitioner, interlocutory or final, is, in the above circumstances, not possible, at this late juncture. As the cause of action, in this petition, would not survive beyond tomorrow, this Court regrets its inability to come to the aid of the petitioner.

16. The writ petition is accordingly dismissed *in limine*.

C. HARI SHANKAR, J

NOVEMBER 12, 2018/kr