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

+ W.P.(C) 166/2019 & CM No.854/2019 (for stay)

DELHI SWARNKAR SANGH & ORS Petitioners
Through Mr.A.K. Thakur, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATION
& ANR

..... Respondents
Through Mr.Ajjay Arora, Standing Counsel for
MCD with Mr.Kapil Dutta, Adv. &
Mr.Kumar Mahendru, Ex. N., Karol
Bagh, in person.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
% **15.01.2019**

1. At the outset, learned counsel for the petitioners states that the petitioner nos.2 & 3 may be deleted from the array of parties, as due to an inadvertent mistake on his part, the same petitioner, namely “Delhi Swarnkar Sangh” has been impleaded as three different petitioners through its Acting President, Chairman and General Secretary.

2. At the oral request of learned counsel for the petitioners, the petitioner nos.2 & 3 are deleted from the array of parties. The amended memo of parties, according to which there are only four petitioners instead of six as set out in the original petition, has been

handed over and the same is taken on record.

3. Vide the present petition, the petitioners seek a direction to the respondent nos.1 & 2 to quash the show cause notice dated 28th November, 2018 as also the consequential sealing orders dated 7th December, 2018 and 8th December, 2018. Learned counsel for the petitioners submits that the petitioner no.1 is an association registered under the Trade Unions Act and is looking after the benefit, welfare and interest of its members who are skilled artisans and goldsmiths. While stating that the list of members of the petitioner no.1 has not been filed, he submits that the said association comprises of over 1000 members. The main grievance of the petitioner nos.2 to 4 as also the petitioner no.1 is that the respondents are proceeding to seal their premises on the ground that they are polluting units without giving the petitioners copies of any documents which show that the stated units are polluting units. He further submits that since the very basis of the sealing of the petitioners' properties is premised on a report which has not been supplied to him, the remedy of appeal cannot be availed by the petitioners at this stage.

4. On the other hand, Mr.Arora, learned counsel for the respondents who appears on advance notice, states that the respondents are taking action only based on a survey conducted by the Ministry of Environment, Union of India which had provided the list of polluting units in the area of Bedonpura and Regar Pura, Karol Bagh to the respondents. Even otherwise, the action of the respondents would fall squarely within the ambit of Section 345A of the Delhi Municipal Corporation Act, 1957 against which the

petitioners could avail the statutory remedy of approaching the Appellate Tribunal, MCD in accordance with Sections 345 B & E of the Act.

5. Mr.Arora further states that even the Monitoring Committee appointed by the Hon'ble Supreme Court has sought a report from the respondents regarding these polluting units and, therefore, the said Committee is also seized of the matter. He draws my attention to the application made by some similarly situated jewellers from Beadonpura who had approached the Monitoring Committee for temporary desealing and submits that their cases have been favourably considered, as a consequence of which about 16 units were temporarily desealed by the order of the Monitoring Committee. He, therefore, contends that the present writ petition is not maintainable and the petitioners should either approach the Monitoring Committee or the Appellate Tribunal of the MCD in accordance with Section 345B of the Act.

6. Mr.Arora, however, submits that keeping in view the principles of natural justice, he has no objection to providing the learned counsel for the petitioners with a copy of the survey report as also the existing list of polluting units as provided by the Ministry of Environment, which list according to him may not be exhaustive. He also states that the respondents do not contemplate to take action and seal properties without giving show cause notices as per law.

7. In view of the aforesaid stand taken by the respondents, learned counsel for the petitioners does not press the present petition and seeks liberty to approach the appropriate forum in accordance with

law.

8. Accordingly, the writ petition along with the pending application is disposed of as not pressed with liberty as prayed for.

Dasti.

REKHA PALLI, J

JANUARY 15, 2019/aa