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

+ **W.P.(C) 1590/2019 & CM No. 7326/2019**

BATTO

..... Petitioner

Through: Mr Hilal Haider and Ms
Aishwarya Dobhal, Advocates.

Versus

STATE OF NCT OF DELHI AND ORS. Respondents

Through: Mr Rishikesh Kumar, ASC with
Mr Premsagar Pal, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.02.2019

1. The petitioner has filed the present petition, *inter alia*, praying that the SDM, Nangloi, be directed to not compel the petitioner and her family to shut down the dairy in question. She also prays that the petitioner be permitted to run the dairy and, for that purpose, obtain whatever necessary legal documentation may be required.
2. It is apparent from the averments made in the petition as well as statements made on behalf of the respondents that the petitioner has been running an illegal dairy in a residential locality. The learned counsel appearing for the respondent has produced relevant records, which indicates that the proceedings in this regard were commenced by one Mr

J. P. Yadav, who is stated to be the son of the petitioner. In this view, the prayers made by the petitioner cannot be acceded to and no relief can be granted to the petitioner for continuing an illegal dairy.

3. The averments made in the petition also indicate that the petitioner was levied a fine of ₹30,000/-. The petitioner states that she was unaware as to the procedure and the law under which such fine has been levied.

4. In the aforesaid averments, the respondents were directed to indicate the relevant provisions of law under which such fine was collected. In this regard, the learned counsel appearing for the respondents handed over a note, which indicates that “*₹30,000/- fine was imposed on the respondent [J. P. Yadav] as Environment Compensation*”. This Court had also directed the respondents to produce the relevant records pertaining to the imposition of the fine. The same has been produced in Court, today. The said records do not indicate any proceedings which had been initiated under the Environment Protection Act, 1986. The order of fine has been passed purportedly under Section 133 of the Code of Criminal Procedure, 1973, which is clearly unsustainable. In this view, this Court has no doubt that the concerned SDM has acted without the authority of law, in collecting the fine.

5. At this stage, learned counsel appearing for the respondent states that the same would be returned to the petitioner forthwith. The respondent is bound down to the said statement.

6. It is, however, clarified that this would not preclude the respondents from commencing appropriate proceedings in accordance with law. Clearly, no penalty can be imposed without due adjudication

by authority, who is duly competent to do so.

7. The petition is disposed of in the aforesaid observations. The pending application is also disposed of.

VIBHU BAKHRU, J

FEBRUARY 20, 2019/MK