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

% *Date of Judgment: 19th August, 2019*

+ W.P.(C) 4028/2019

RESIDENTS OF BODAL GALI Petitioner

Through Mr. Harsh Kumar, Advocate.

versus

EAST DELHI MUNICIPAL CORPORATION Respondent

Through Ms. Biji Rajesh & Mr. Aman S.
Bakshi, Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

G.S. SISTANI, J. (ORAL)

CM. APPL 18199/2019 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 4028/2019

3. The present writ petition has been instituted by the residents of Bodal Gali seeking the following prayers :

“a) Issue a Writ of Certiorari or Any Other Appropriate Writ, Order or Direction Under Article 226 of the Constitution of India Quashing / Reading Down the Notification No.F.33/Naming & Re. Naming 1871/C&C dated 18.10.2016 and Notification No.F.33/Corporation/886/C&C dated 06.03.2017 of the respondent being ultra-vires/ unconstitutional and as being violative of Article 14 and Article 21 of the Constitution, in the interest of justice.

b) pass such other or further order(s) as may be deemed fit and proper in facts and circumstances of the present case, in the interest of justice.”

4. At the outset, learned counsel for the respondent submits that the present writ petition is gross abuse of the process of the Court and is liable to be dismissed with costs for the reason that the petitioners had earlier approached this Court by filing a writ petition being W.P. (C) 2742/2019, which was dismissed by an order dated 03.04.2019. Thereafter, an LPA being LPA 262/2019, filed by the appellant/petitioner herein, was also dismissed by the Division Bench of this Court vide order dated 16.04.2019.
5. Counsel for the petitioner submits that the present writ petition would be maintainable for the reason that when the earlier writ petition was instituted, the petitioner did not have copies of the two notifications being Notification No.F.33/Naming & Re. Naming 1871/C&C dated 18.10.2016 and Notification No.F.33/Corporation/886/C&C dated 06.03.2017, which are sought to be challenged in the present writ petition. It is further pointed out by the counsel for the petitioner that in fact the respondent had raised an objection during the pendency of the first writ petition that the petitioner had not laid challenge to the said two notifications. Additionally, learned counsel for the petitioner submits that this is not a case of naming of a road/lane but is in fact a case of renaming of a road, which is evident from the copy of the electoral roll placed on record along with the Aadhar cards of the residents, which would show that the lane in question was known as Bodal Gali.

6. In response to the submissions so made by the counsel for petitioner, Ms. Biji Rajesh, counsel appearing for the respondent submits that firstly the notifications pertain to the years 2016 and 2017 and the petitioner has failed to render any plausible explanation for not challenging the notification when the first writ petition was filed. Thus, this Court cannot permit the petitioner to file another writ petition on the same cause of action. Secondly, it is submitted that the notifications were in public domain and it was open for the petitioner to carry out due diligence and seek copies thereof prior to filing the first writ petition. Thirdly, it is submitted that this issue was raised before the learned Single Judge, however, the petitioner did not seek leave either to amend the writ petition or to withdraw the writ petition with liberty to file afresh and thus, the second writ petition raising identical questions and prayers is not permissible and liable to be dismissed with costs. Ms. Rajesh next contends that in the record of the Municipal Corporation of Delhi (MCD), the lane in question was unnamed. Attention of the Court is drawn to the Minutes of Meeting, copies whereof have been placed on record by the petitioner, in support of her plea that in the record of MCD the name of the lane had not been mentioned.
7. We have heard the learned counsels for the parties and find force in the submissions made by Ms. Rajesh. In the first writ petition, the petitioner did not assail the two notifications, which are sought to be assailed in the present writ petition. To say that the petitioner did not have the copies of the notifications, cannot be a ground for filing a second writ petition. The court cannot loose sight of fact that the

respondent had raised an objection when the first writ petition had come up for hearing that the two notifications had not been challenged. The petitioner, at that stage, neither sought leave to amend the writ petition nor sought liberty to challenge the same. However, the petitioner filed an LPA being LPA 262/2019, which was dismissed on 16.04.2019. The petitioner cannot be permitted to file multiple proceedings as there is no reasonable and plausible explanation for not challenging the two notifications, which were in public domain at the first opportunity available. As far as the question of renaming the lane is concerned, we have examined the Minutes of Meeting dated 27.02.2017, which would show that in the record of the MCD, Gali no.1, Saket Block, 60 meters length and 4.50 meters breadth, was not named. Minutes of the Meeting dated 27.02.2017 read as under :

“Item no.22 Ward no.223 Gali No.1, Saket Block named as **"Hanuman MandirMarg"**

Commissioner Letter no.F.33/ABY/P.D.N.N./2025/S&S
Dated 31.01.2017

In the morning, (Road, etc. naming and renaming) committee F-33/Name and Renaming/1871/C&C dated 18.10.2016 was proposed by Sh.SushilUpadhyay from Sh.JitenderChaudhary and through Sh.Sanjay Jain approved minutes no.62 are as follows:-

Ward no.223, Gali no.1 be named as "Hanuman MandirMarg".

Guidelines of Home Ministry, Government of India letter no.13022/34/74-Delhi dated 27.05.1975 and vide MCD Letter no.713 dated 15.10.1979, it has been decided that existing named roads/street shouldn't be changed. Only new roads/ streets etc. and those roads/ streets which are without

any specific name, should be named after eminent personalities (respected, national or international).

Gali no.1, Saket Block length 60meter and breadth 4.50meter. According to public information, this road is not named. There is an old Hanuman Mandir in the street.

Because it is proposed that Ward no.223, Gali no.1, Saket Block be named as "Hanuman MandirMarg" from the Municipal.

(II) Ad Hoc (Roads etc naming and renaming) Committee resolution no.205 dated 31.01.2017

It has been decided that municipal may consider that commissioner through his letter no.33/ABY/P.D.N.N./2025/C&C dated 31.01.2017 and be passed.

Item no.22 Ward no.223, Gali No.1, Saket Block be named as "Hanuman Mandir Marg".

Sh.Sanjay Jain proposes the following resolution of Sh.JitenderChaudhary:-

Decision Item.243 It has been decided that Ad Hoc (Roads etc naming and renaming) Committee resolution no.205 dated 31.01.2017 wherein the resolution be accepted by the commissioner.

Resolution has been passed.”

8. The Minutes of Meeting dated 27.02.2017 also show that Gali no.1, Saket Block was not named and having regard to the fact that there is an old Hanuman Mandir in the street, it was proposed to name the street as ‘Hanuman Mandir Marg’. Reading of the Minutes of Meeting dated 27.02.2017 clearly show that a decision of naming the street as ‘Hanuman Mandir Marg’ was taken and the resolution was passed. We

do not find the action of the respondent arbitrary or fanciful or illegal. In the earlier rounds of litigation, when the W.P.(C) 2742/2019 and LPA 262/2019 was filed, the learned Single Judge and the Division Bench have relied upon a decision of this Court rendered in the case of *Ved Pal Vs. Govt. of NCT of Delhi & another*, W.P. (C) 7982/2015 decided on 17.09.2015 wherein the Division Bench, relying on a decision of the Supreme Court in the case of *Tata Cellular Vs. Union of India*, AIR 1996 SC 11, dismissed the writ petition on the ground that it is not for the Court to determine whether a particular policy or decision, taken in the fulfillment of that policy, is fair and it is only concerned with the manner in which those decisions have been taken.

9. Resultantly, we find the writ petition to be misconceived and lacks merits. The same is accordingly dismissed.

CM. APPL 18198/2019 (stay)

10. In view of the order passed in the writ petition, the application stands disposed of.

G.S. SISTANI, J

JYOTI SINGH, J

AUGUST 19, 2019/ck