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

Date of Decision: 13th September, 2019

+ W.P.(C) 9944/2019

ANIL KUMAR

..... Petitioner

Through: Mr. Sushil Kr. Jain, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION THROUGH ITS
COMMISSIONER & ORS

..... Respondents

Through: Mr. Amrit Pal Singh, Adv. for R-1.
Mr. T.S. Nanda, Adv. for R-2 & 3
/GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

D.N. PATEL, CHIEF JUSTICE (Oral)

1. This so-called Public Interest Litigation has been preferred with the following prayers:

“(a) issue a writ, order, direction in the nature of mandamus thereby directing respondent Nos. 1 to 3 for demolition of the illegal and unauthorized encroachment and construction raised by respondent no. 4 in front of MCD Primary School near New Community Centre, Village Tekhand, Okhla Industrial Area Phase-1, New Delhi -110020, where the respondent No. 4 is illegally selling alcohol, ganja, charas openly in the garb of tea shop in collusion of respondent No.1 to 3 and spoiling the atmosphere of the locality and direct the respondent 1 to 3 to take necessary legal action against respondent no.4..

AND

(b) Any other order or direction as this Hon'ble Court may deem fit and proper be also passed.”

2. Having heard the learned counsel for the petitioner and looking to the facts and circumstances of the case, it appears that the petitioner is in search of demolition of illegal and unauthorized encroachment alleged to be raised by the respondent No.4. Similarly, the petitioner is in search of an action to be initiated against respondent No.4 for selling prohibited items under the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. It appears that this is not a Public Interest Litigation at all. In fact, all canons of allegations are against the private respondent – Respondent No.4. In such type of cases, the only remedy available with the petitioner is to lodge a criminal complaint or any other proceedings in his individual capacity, before the appropriate authority or Court or forum, so that Respondent No.4 can file a proper reply, along with the reply to be given by the Municipal Corporation but not by way of Public Interest Litigation at all.

4. Hence, we see no reason for an action to be taken against respondent No.4, merely because there are allegations raised by the petitioner against the respondent No.4, in this so-called Public Interest Litigation.

5. As and when appropriate proceedings are initiated, appropriate action can be taken by the respondent – Corporation/Police Authority in accordance with law, rules, regulations and Government policy applicable to the facts of the present case after giving an adequate opportunity of being heard to the concerned party.

6. With these observations, the writ petition is hereby dismissed.

CHIEF JUSTICE

SEPTEMBER 13, 2019/kks

C.HARI SHANKAR, J