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

+ W.P.(C) 7119/2018

PARVEEN KUMAR

..... Petitioner

Through: Mr. I. C. Mishra, Adv.

versus

GOVT OF NCT DELHI & ORS

..... Respondents

Through: Ms. Warisha Farasat, Panel Counsel
with Ms. Rudrakshi Deo, Adv. for R-
1, 4 & 5
Mr. Tamim Qadri, Adv. for R-2 & 3.
Mr. Sunil Kumar, Adv. for R-6.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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06.03.2019

The petitioner is aggrieved by running of a sweet shop from property bearing No. A-306 Sector-2, Pocket-00, Rohini, Delhi under the name and style of M/s Aggarwal Sweet Corner.

2. Learned counsel for the petitioner contends that his grievance relates *firstly*, to misuse of the subject property inasmuch as, according to the petitioner, the subject property is a garage and it is not permissible to run a shop from the garage; *secondly*, the petitioner contends that the sweet shop is being run without the requisite health trade licence ; and *thirdly*, the petitioner also contends that the sweet shop is being run in unsanitary and unhygienic conditions. In this background the petitioner seeks action against the subject property principally by respondents Nos. 2 and 3/North-DMC.

3. All respondents in the matter are represented.

4. Status report dated 28.02.2019 filed by respondent No. 3/North-DMC recites to the effect that the sweet shop in question holds a valid health trade licence valid upto 31st March 2019. The status report further avers that at the time when the property was inspected, the business was being run in sanitary and hygienic conditions. The report however states that the terms of the licence were violated inasmuch as temporary encroachments such as serving counters etc. had been placed outside the licensed premises; in which regard raids have been conducted on various occasions and the temporary encroachments/items lying outside the premises were seized and subsequently released after levying the prescribed penalty. Insofar as the issue of food quality, adulteration etc. is concerned, the status report says that such matters fall within the jurisdiction of the Department of Food Safety of respondent No. 1/Government of NCT of Delhi.

5. That being said, counsel appearing for the petitioner disputes and denies what is stated in the status report and wishes to pursue action against respondent No.6/M/s Aggarwal Sweet Corner.

6. From the aforesaid, it is evident that insofar as the matter of holding health trade licence and operating in hygienic conditions is concerned, respondents Nos. 2 and 3/North-DMC affirms that those aspects are being adhered to and respondent No. 6 is therefore in compliance of the law. On this issue, I am inclined to accept what is stated in the status report.

7. That leaves the question of alleged misuse of the premises and temporary encroachment on public land by respondent No. 6 by setting-up serving counters etc. outside the subject premises.

8. In respect of such grievance, it transpires that in compliance of orders of the Supreme Court in Writ Petition (Civil) No. 4677/1985 titled *M.C.*

Mehta vs. Union of India & Ors, the Ministry of Housing & Urban Affairs (“MHUA”) of the Government of India has *vide* Office Memorandum dated 25.04.2018 constituted a Special Task Force to comprehensively address violations of the provisions of the Unified Building Bye Laws and Master Plan for Delhi-2021 relating *inter alia* to construction activity and land-use in Delhi. *Vide* another Office Memorandum dated 23.05.2018 the MHUA has also formulated an action plan for monitoring construction activities in Delhi and for fixing responsibility in case of violations of the Unified Building Bye Laws and the Master Plan.

9. *Vide* order dated 20.09.2018 made in Writ Petition (Civil) No. 1807/2018 titled ***Devender vs. Government of NCT of Delhi & Ors.*** (and connected matters) by the Division Bench of this Court headed by Hon’ble the Chief Justice, the Court has held that in view of the setting-up of the Special Task Force under directions of the Supreme Court it is not appropriate for our court to exercise jurisdiction in matters relating to unauthorised construction; and has disposed of such matters granting liberty to the petitioners to raise their grievances before the Special Task Force so constituted, in accordance with the scheme and procedure formulated under the aforesaid two Office Memorandums.

10. By order dated 24.09.2018 made in a subsequent matter, being Writ Petition (Civil) No. 9938/2018 titled ***Suresh Chand Goel vs. East Delhi Municipal Corporation***, the Division Bench has followed its earlier order dated 20.09.2018 in Writ Petition (Civil) No. 1807/2018, similarly disposing of the writ petition, granting liberty to the petitioner to file a complaint before the Special Task Force. I am informed that the Division Bench has subsequently also made similar orders in other matters.

11. To be sure, the petitions that were subject matter of the aforesaid proceedings before the Division Bench were petitions filed *in public interest and otherwise*; and related to contravention *not only of sanctioned building plans but also of various laws*, including the Delhi Municipal Corporation Act, 1957, the Delhi Development Authority Act, 1957, the New Delhi Municipal Council Act, 1994, the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and the Ancient Monuments Preservation Act, 1904 as also encroachment on public land etc.

12. Ergo, the binding observation of the Division Bench that in view of the setting-up of the Special Task Force under directions of the Supreme Court it is *not* appropriate for our court to exercise jurisdiction in such matters, *must not* in my view, be restricted *only* to matters relating to unauthorised construction but *must also apply to all other matters* which the Special Task Force is mandated to deal with, including misuse and encroachment. In many instances, it may well be that there are multiple violations of Building Bye Laws and Master Plan in the same property, say unauthorised construction, encroachment as well as misuser of premises; in which case the same agency must be left to deal with such connected issues. I should think it is for this reason that the objectives of the Special Task Force as enunciated in Office Memorandum dated 25th April 2018 include *inter-alia* matters relating to encroachment, unauthorised construction and use violations.

13. The aforesaid Special Task Force is a 15-member body with representation of the highest level from all concerned municipal, civic, revenue and law enforcement agencies of Delhi; and is therefore ideally suited for multi-agency, coordinated action against the rampant malaise of

breach of various laws, rules and regulations governing building construction and land-use in Delhi.

14. I am informed that as of date the Special Task Force even has its own dedicated website and mobile application to facilitate making of complaints, thereby making it even easier for parties to take their grievances before the said agency.

15. Accordingly, I am of the view that the correct course of action in this matter also would be to dispose of the present writ petition, giving liberty to the petitioner to approach the Special Task Force in accordance with the policy and procedure laid down for the purpose in MHUA's Office Memorandums dated 25.04.2018 and 23.05.2018 and avail the said alternate, efficacious remedy.

16. This writ petition is disposed of in the above terms.

17. Pending applications, if any, are also disposed of.

ANUP JAIRAM BHAMBHANI, J.

MARCH 06, 2019/sr