

\$~21

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

+ CONT.CAS(C) 13/2019
BHAGWATI PRASAD

..... Petitioner

Through: Mr. S.P.Sharma, Advocate

versus

MADHUP VYAS,
COMMISSIONER, NORTH-DMC

.....Respondent

Through: Mr. Mukesh Gupta, Standing Counsel
with Mr. Arnav "Gupta, Mr. Shashi
Gupta, Mr. Mayank Ahuja, Advocates
for North DMC.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **11.03.2020**

In this contempt petition, the petitioner makes the following prayer:-

"It is, therefore, most respectfully prayed that the contempt proceedings against the contemnor / respondent no.6 North Delhi Municipal Corporation, Rohini Zone, Delhi may kindly be initiated and action be taken as per law the concerned responsible officials of contemnor be suitably punished for committing the contempt of this Hon'ble Court and directions may kindly be issued in violation of orders dt.22.11.2016 & 14.09.2018."

The issue in the matter was the demolition of a public urinal at D-4 Block, Sultanpuri, Delhi ; and the petitioner's prayer was that the respondent/ North Delhi Municipal Corporation should restore/rebuild the urinal.

In this context, by order dated 22.11.2016 passed in W.P.(C) No.

11076/2016, a Division Bench of this Court had recorded the following statement on behalf of North DMC:-

"Sh. Mukesh Gupta, the learned Standing Counsel for the North MCD, under instructions, states that steps have already been initiated for restoring the public urinal in question and the needful would be done expeditiously. The statement of the learned Standing Counsel is placed on record."

(Emphasis Supplied)

Thereafter, in order dated 14.09.2018 in the same writ petition, the following came to be recorded:-

"Learned counsel for the applicant has also drawn our attention to file notings on the question of shifting of toilet, in view of the request made by residents of D-4, Block, Sultanpuri, Delhi. These are internal file notings and do not justify illegal demolition of an existing toilet. In any case, the respondent/NDMC after and on due examination has taken a decision that the toilets must be reconstructed at the same location. They have stated that absence of public toilet is causing difficulty and hardship to public at large. It is also stated that joint survey of the cleaning staff of the Sanitation Department, Rohini and the representative of the Market Association was carried out, and it was mutually agreed that there was no alternate site. Learned counsel for the applicant states that he was not present at the survey. Be that as it may, we do not see any reason to stay and restrain the NDMC from constructing the toilet.

As the stay order is now vacated, the NDMC would take steps in accordance with law. While constructing the public urinals/toilets, the NDMC would take into notice any objection and concern raised by TPDDL, and ensure there is no violation.

Recording the above directions and observation, all pending applications are disposed of."

(Emphasis Supplied)

The respondent/North DMC has since filed compliance affidavit dated 13.05.2019 in which it is stated:-

"3. That pursuant thereto the Municipal contractor viz., M/s Singhal & Sons to whom the work order dated 14.08.2017 for construction of Urinal Block at D-4 Market Sultanpuri stood issued earlier, was instructed to restart the work of construction at the mutually agreed site. However, the Contractor has declined to carry out our work order on account of escalation of costs of material and labour.

4. That, therefore, the answering respondent initiated retendering process for carrying out the work in question and a fresh Work Order was issued to M/s Devanand Mehra, vide W.O. No.EE(M)II/SYS/2018-19/206 dated 25.02.2019, copy attached ANNEXURE-R/1.

5. That the Municipal Contractor has since carried out construction of Urinal Block for Men/Women at the said site on 25.04.2019. The photographs depicting present status of completed construction of Urinal Block at the site in question are attached as ANNEXURE-R/2 (Colly.)

6. That after construction, a joint inspection report of the urinal block has been carried out by the JE/AE of answering respondent along with Zonal Manager, TPDDL on 25.04.2019 and there was no objection to TPDDL on the present location on the urinal block. A copy of Joint Inspection Report dated 25.04.2019 containing NOC of TPDDL is attached as ANNEXURE-R/3.

7. That in view of the above factual position, it is respectfully submitted that the answering respondent has already ensured compliance of order dated 14.09.2018 of this Hon'ble Court in W.P.(C) No.11076/2016 titled BHAGWATI PRASAD Vs. UOI & Ors. in toto."

Mr. Mukesh Gupta, learned Standing Counsel appearing for North DMC states that, as recited in the foregoing compliance affidavit, the urinal has been rebuilt; the orders of this court have been complied with; and

nothing further remains to be done. He further states that the delay in reconstruction/rebuilding of the urinal has also been explained in the affidavit.

Mr. S.P.Sharma, learned counsel appearing for the petitioner, while admitting that the urinal has since been re-constructed, points-out that the urinal is not being maintained in terms of cleanliness or hygiene. In this context, he points-out the following observation that was recorded in order dated 14.09.2018 aforesaid:-

"... Of course, public urinals/toilets have to be maintained and cleanliness and hygiene has to be ensured. It is the obligation of the NDMC to ensure maintenance, cleanliness and hygiene."

In view of the above, counsel for the North DMC makes a statement that North DMC will ensure maintenance, cleanliness and hygiene of the urinal in question.

Taking the statement made on record, the petition stands disposed of.

ANUP JAIRAM BHAMBHANI, J.

MARCH 11, 2020/vk