

\$~A-39

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

+ W.P.(C) 1356/2020 and CM APPL. Nos. 4747-48/2020

SONIA BAWA

..... Petitioner

Through Mr.Sudhir Nandrajog, Sr. Adv. with
Mr.Kanishk Ahuja and Ms.Jagriti Ahuja, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION..... Respondent

Through Mr.Gaurang Kanth, Standing Counsel
for SDMC.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

05.02.2020

1. This petition is filed by the petitioner seeking to impugn the order dated 30.01.2020 whereby in exercise of powers under Section 345A read with Section 491 of the DMC Act, the concerned Deputy Commissioner (South Zone) directed that in view of the activity of running a play school/day care centre being carried out in the property being DDA Flat No. 301, RPS Flats, Sheikh Sarai, Phase-I, New Delhi, the property is liable for sealing action. A direction was also issued to the petitioner to discontinue the misuse within 48 hours failing which the property would be sealed.

2. Learned senior counsel for the petitioner has urged reliance upon Clause 15.7.1 of the MPD 2020-21 that the petitioner is permitted to run a nursery school/crèche in a residential plot on a road abutting right of way as prescribed in Clause 15.7.2. He states that the plot of petitioner would fall

within this category.

3. Learned counsel for the respondent strongly objects to filing of this writ petition stating that under Section 347 B of the DMC Act as the sealing order is an appealable order.

4. At this stage, learned senior counsel for the petitioner states that they would like to withdraw this petition with liberty to approach the ATMCD. He however urges that only a 48 hour notice has been issued to the petitioner which will cause grave prejudice to the petitioner as it would not be feasible to approach ATMCD and urge an interim injunction application within the stipulated period.

5. There is merit in the contention of the learned senior counsel for the petitioner.

6. The petition is dismissed as withdrawn with liberty to the petitioner to approach the ATMCD. The sealing order shall remain stayed for a period of two weeks from today. The ATMCD would be at liberty to extend, modify or vacate the interim order as per law.

7. Pending applications also stands dismissed as withdrawn.

JAYANT NATH, J

FEBRUARY 05, 2020

rb