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

Date of Decision: 4th November, 2020

+ W.P.(C) 5272/2020 with CM APPL. 18992/2020 & 26811-27813/2020

SH. DHIRAJ BHUSHAN Petitioner
Through: Ms.Shriya & Mr.Vinayak Batta,
Advocates
versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents
Through: Mr.Dhanesh Relan & Ms.Gauri
Chaturvedi, Advocate for R-1/DDA.
Mr.Manashwy Jha, Advocate for Mr.Sameer
Vashisht, ASC (Civil), for R-2/GNCTD.
Mr.Tushar Sannu, Addl. Standing Counsel with
Ms.Ankita Bhadouriya, Advocate for R-3/EDMC.
Mr.Kartikey Nayyar, Ms.Bharvi Thakur,
Advocates for Intervenor in CM APPL.27813/2020
with Mr.Peeush Sharma, Intervenor no.3.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

D.N.PATEL, Chief Justice (Oral)

The proceedings in the matter have been conducted through video conferencing.

1. The petitioner is a resident of D-Block, in Anand Vihar, Delhi, a residential locality established on land allotted to the respondent No.4/Railway Board Employees House Building Society. Anand Vihar

consists of 903 plots. In the present writ petition, filed in public interest, the petitioner contends that despite the fact that there are 14 parks situated in the locality, they have all been converted into ornamental parks, and that children are not permitted to play in the said parks. According to the petitioner, the parks are used by senior citizens and toddlers, but older children, who wish to play more active sports, are not being permitted to do so, perhaps to avoid injury to other users of the park.

2. Aggrieved by the above, the petitioner seeks the following reliefs in the present writ petition:

- “(i) issue a writ, order, or direction in the nature of Mandamus directing the respondents to demarcate and develop the plots shown in red colour and marked as 'A', 'B' and 'C' in the site plan (Annexure P-1) in AnandVihar Colony as sports parks for children to play active sports and ball games in the said parks;*
- (ii) issue a writ, order, or direction in the nature of Mandamus directing the respondents to convert at least one more park in each Block in AnandVihar Colony out of the existing 14 parks into sports parks for children to play active sports and ball games in the said parks;*
- (iii) Pass such other and further orders which this Hon'ble Court may deem fit in the facts and circumstances of the case.”*

3. A counter affidavit has been filed on behalf of the respondent No. 3/East Delhi Municipal Corporation (“EDMC”), in which it is stated that there are 20 parks in Anand Vihar, including parks for toddlers, which were handed over to the local Residents’ Welfare Associations. It is contended that there are, in fact, three parks located near the petitioner’s residence where children are free to play. During the course of proceedings, two applications have been filed by other residents of Anand Vihar seeking

intervention/impleadment in the present petition.

4. Having heard learned counsel for the parties, we are of the view that, in a locality like Anand Vihar, where there are undisputedly several parks, the problem can be resolved by demarcating different areas for different types of activities. The needs of toddlers and senior citizens to enjoy the outdoors in safe places is unquestionable. However, it is no less important to ensure that older children also have appropriate facilities for sport and recreation suitable to their age. In the decision in *Court On Its Own Motion vs. Union of India Through: Ministry of Urban Development & Ors.*, 2015 SCC OnLine Del 9749 [W.P.(C) No.2345/2014, decided on 6th May, 2015], this Court was concerned with maintenance and facilities available in children's parks. The importance of outdoor recreational avenues for the mental and physical health of children was emphasised in the said judgment with the objective of promoting their emotional, social, motor and cognitive development. To similar effect is the judgment of this Court in *Rajinder Nagar Welfare Association & Anr. vs. Municipal Corporation of Delhi & Ors.*, 2011 (179) DLT 496, wherein the importance of public parks for people of all age groups was highlighted by the Court.

5. Keeping the importance of outdoor recreation for all sections of residents in mind, we are of the view that the demarcation of areas in the colony for different activities is a task best left to the Residents' Welfare Associations and the respondent-authorities at the first instance. Respondent Nos. 1 and 3 are directed to consider the issues raised by the petitioner in consultation with all stakeholders (including the Residents' Welfare Associations, the petitioner and the applicants who have sought intervention in these proceedings) and make necessary arrangements to ensure that

children have adequate facilities to play active sports at least in some of the parks in the residential locality. For this purpose, the respondent authorities will convene a meeting with all concerned stakeholders (if necessary, by video conference) within two weeks from today, and it is expected that they will arrive at a resolution of the issues within four weeks thereafter. In matters of this nature, the solutions can be experimental in nature; the respondents can review the situation and make necessary changes periodically after consultation with the stakeholders.

6. We leave it to the respondent-authorities to undertake this exercise at the first instance, on the assurance of the learned counsel for the parties that they will cooperate with the respondent-authorities to come to a conclusion which is mutually satisfactory and beneficial for all sections. We expect that all stakeholders will come to a resolution in the spirit of neighbourliness and mutual cooperation, rather than protracting disputes of this nature.

7. In view of the above observations and in light of the aforesaid decisions, this writ petition is hereby disposed of with a direction to respondent No.1/Delhi Development Authority and respondent No.3/EDMC to treat this petition as a representation and to decide the same in light of the above observations and judgments, within the time period set out above.

8. The writ petition is hereby disposed of with the aforesaid directions.

CHIEF JUSTICE

NOVEMBER 4, 2020/ 'hkaur'

PRATEEK JALAN, J