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

% Judgment delivered on: 22nd October, 2021

+ W.P.(C) 1264/2021

DINESH KUMAR SHARMA

..... Petitioner

versus

SOUTH DELHI MUNICIPAL
CORPORATION & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Sonia A. Menon, Advocate (through VC)

For the Respondents: Mr.Divya Prakash Pande, Standing Counsel for SDMC (through VC)
Ms. Aakansha Kaul, Advocate for R-2 (through VC)

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

1. Petitioner impugns communication order dated 30.12.2020, whereby petitioner an Architect has been debarred from signing/submitting building plan applications, completion certificate applications as well as layout plan applications with the three municipal corporations; namely – South Delhi Municipal Corporation, North Delhi Municipal Corporation and East Delhi Municipal Corporation for period of one year.

2. Learned counsel for the petitioner submits that petitioner has not made any misrepresentation and as such there was no cause to take any

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action against the petitioner. She submits that the coordinates of the property are automatically picked up by the mobile application set up by the respondent corporation and as such the contentions that the petitioner had incorrectly stated the distance between the property for which sanction was sought and a protective monument, is incorrect.

3. Learned counsel further submits that the show cause notice which was issued was only with regard to revocation of the building plan and not with regard to debarring the petitioner.

4. Learned counsel appearing for the petitioner further submits that counter affidavit filed by respondent no. 2 contains certain factual errors for which a response/explanation would be required.

5. Digital copy of the counter affidavit filed by respondent no. 2 be furnished to learned counsel for respondent no. 1 within two days.

6. Learned counsel appearing for the respondent no. 1 SDMC under instructions from Mr. Sanjeev Arora, Assistant Engineer, SDMC submits that since one of the grounds raised by the petitioner is with regard to non issuance of a show cause notice and non-grant of an opportunity of personal hearing, respondent-Corporation is willing to grant an opportunity of hearing to the petitioner.

7. He submits that the impugned order dated 30.12.2020 may be treated as a show cause notice to the petitioner who may file his response thereto and thereafter, after grant of an opportunity of a personal hearing, fresh

order shall be passed.

8. In view of the above, impugned order dated 30.12.2020 is set aside. The impugned order dated 30.12.2020 shall be treated as a show cause notice to the petitioner. Petitioner shall file a response to the show cause notice within four weeks from today and thereafter Respondent-Corporation shall grant an opportunity of personal hearing to the petitioner and shall pass a fresh speaking order.

9. It is clarified that this would be without prejudice to the rights and contentions of the parties. The contention raised by respondent no. 2 in its counter affidavit shall not be treated as having been admitted by the petitioner and petitioner would have an opportunity of responding/explaining the averments contained therein in his reply to the show cause notice to the Corporation.

10. Thereafter, respondent-Corporation shall pass a speaking order without being influenced of anything stated in this order on merits.

11. The petition is disposed of in the above terms.

SANJEEV SACHDEVA, J

OCTOBER 22, 2021

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