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

% *Decided on: 1st March, 2021*

+ W.P.(C) 2653/2021

PRERNA EK DISHA FOUNDATION Petitioner
Through: Mr.Deepak Kumar Sharma, Adv.

Versus

THE CHAIRMAN SPECIAL
TASK FORCE AND ORS Respondents
Through: Ms.Shobhana Takiar, Standing
Counsel for R-1/DDA.
Mr.Nishant Kumar, Adv. for R-2/SDMC.
Ms.Sangeeta Bharti, Standing Counsel for DJB.
Mr.Sunil Fernandes, Standing Counsel with
Mr.Shubham Sharma, Adv. for R-4/BSES-RPL.
Mr.Sameer Vashisht, ASC for R-5&6.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JASMEET SINGH

JUDGMENT

: **D.N.PATEL, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

C.M.No.7858/2021 (exemptions)

Allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) No.2653/2021

1. This so called public interest litigation has been preferred with the following prayers:-

- a) Issue a writ, order or direction in the nature of mandamus thereby directing the Respondent No.1 to take all actions including demolition action against the properties unauthorizedly constructed mentioned in para 14 above in a time bound manner.
- b) Issue a writ, order or direction in the nature of mandamus thereby directing the Respondent No. 2 to take demolition and prosecution action against the owners/builders of the unauthorizedly constructed properties mentioned in para 14 above in a time bound manner and take them to logical conclusion.
- c) Issue a writ, order or direction in the nature of mandamus thereby directing the Respondent No.3 to disconnect water supply to unauthorized constructed property regarding which request is received from Respondent No.2.
- d) Issue a writ, order or direction in the nature of mandamus thereby directing the Respondent No.4 to disconnect electricity supply to unauthorized constructed property regarding which request is received from Respondent No.2.
- e) Issue a writ, order or direction in the nature of mandamus thereby directing the Respondent No. 5 to ensure that no document whatsoever in respect of properties unauthorizedly constructed mentioned in para 14 is registered.
- f) Issue a writ, order or direction in the nature of mandamus thereby directing the Respondent No.2 to take disciplinary actions against all the officers of South Delhi Municipal Corporation who turned blind eye when the unauthorized construction was being raised and despite making of complaint failed to take demolition, sealing

and prosecution action against the unauthorized properties as well as their owners /builders.

- g) Issue a writ, order or direction in the nature of mandamus thereby directing the Respondent No.2 to stop unauthorized construction in the properties unauthorizedly constructed mentioned in para 14 above.
- h) Issue a writ, order of direction in the nature of mandamus thereby directing the Respondent No.2 to devise mechanism whereby the area Junior Engineer and Assistant Engineer maintain daily records of their visits to the area under their supervision and control and taking of disciplinary actions against them, if they fail to notice any property being constructed unauthorizedly.
- i) Award cost of the present petition in favour of the Petitioner.
- j) Any other or further writ, order or direction which this Hon'ble Court deem fit and proper in the fact and circumstances of the present case may kindly be also passed in favour of the Petitioner.”

2. Learned counsel for the petitioner submits that the petitioner is an NGO and is engaged in social work such as feeding poor people. It is further submitted by the learned counsel for petitioner that this NGO came into existence on 19th November, 2020, and since 10th December, 2020 onwards, the petitioner has been preferring representation via letters to the respondent authorities about the illegal constructions. When this Court put to the counsel for petitioner specific question as to whether the petitioner has ever obtained the building construction plans etc. regarding the alleged illegal constructions in question, the answer is in negative. However the learned counsel for the petitioner state's that the petitioner has enquired from the vicinity of the area in question about the alleged illegality of the

buildings situated in the vicinity, which are referred to in **paragraph-14** of the memo of this writ petition. Thus, it seems from the submissions from the learned counsel of the petitioner that, this petitioner enquired from the vicinity, i.e., from the neighbours and bye-passers about the illegality of the constructions in question. This is how the inquiry has been conducted by the petitioner on the basis of which he is seeking demolition of several constructions which are referred to in paragraph-14 of the petition.

3. In view of the aforesaid, it appears that this is not a public interest litigation at all, but, this is a blackmailing type of litigation. Even the persons who are alleged to have carried out the alleged unauthorized constructions are not joined as a party respondents. Thus, prayer of demolition is made without joining the owners/occupiers of the property in question. Moreover, neither any attempt is made to get the building plans from the concerned respondent authorities nor the appropriate enquiry has been made about the illegality or otherwise of the construction in question. Merely, on the basis of the photographs which are annexed with the writ petition, we cannot pass an order of demolition of as many as 49 properties in question which are referred to in paragraph-14 of the petition. It ought to be kept in mind that the legality or otherwise of the construction cannot be proved on the basis of the photographs but can only be decided on the basis of cogent and convincing evidences placed before the Trial Court. Hence, we see no reason to entertain this writ petition. The petitioner – NGO has come into existence in November, 2020 and immediately seems to have started blackmailing type of litigation.

4. In view of the aforesaid, this writ petition dismissed with costs of Rs.1,00,000/- (Rupees One lac only) to be deposited with the Member

Secretary, Delhi Legal Services Authority within a period of four weeks from today. The amount deposited will be use by Member Secretary, DLSA, for "Access to Justice" programmes.

5. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi.

6. List this matter on 12th April, 2021, for reporting compliance.

CHIEF JUSTICE

JASMEET SINGH, J

MARCH 01, 2021

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