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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 23rd February, 2022

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W.P.(C) 3332/2022

MOHD FAROOQ

..... Petitioner

Through: Mr. Ajeet Yadav, Advocate.

versus

STATE NCT OF DELHI AND ORS

..... Respondents

Through: Mr. Sameer Vashisht, Additional
Standing Counsel with Ms. Sanjana Nangia,
Advocate for R-1 to 3, 11 to 13.

Mr. Sunil Fernandes, Standing Counsel with
Mr. Shubham Sharma, Advocate for BSES/R-4.

Ms. Sangeeta Bharti, Standing Counsel for R-5.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL. 9698/2022 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 3332/2022

1. Present Public Interest Litigation has been preferred seeking the following reliefs:-

“a) Issue a writ, order or direction in the nature of mandamus thereby directing respondent No.1 (Govt of NCTD) to take all actions including demolition action against illegally



constructed structure mentioned in the instant petition in a time bound manner.

b) Issue a writ of mandamus or other suitable writ under Article 226 of the constitution of India directing the respondent no.1 (Govt of NCTD) and Respondent no. 2 (The Lieutenant Governor of Delhi U/T) to appoint Lokayukt (Govt. of NCT of Delhi) as the seat / bench is vacant for more than last 10 months.

c) Issue a writ order or direction in the nature of mandamus thereby directing respondent No. 3 (Public Works Department) to ensure the stopping of work and take the custody & maintenance of the encroached site under their control and take stern action against the responsible officers who turned blind eyes on this illegal construction.

d) Issue a writ order or direction in the nature of mandamus thereby directing respondent No. 4 (Delhi Jal Board)& Respondent no.5 (BSES)to disconnect water &electricity supply to unauthorized constructed property and to take all actions against the person who has been supplying the electricity and water for the construction activities related to above mentioned illegal structure.

e) Issue a writ order or direction in the nature of mandamus thereby directing the respondent no. 1 & 2 to take appropriate action against the Respondent no. 6 (Amantullah Khan, MLA Okhla constituency) for misusing the MLA LAD funds and action against the Respondent no. 6 & 7 (Abdul Wazir, Counselor, ward no. 102) for misusing their official position. Respondent 1 & 2 also be directed to stop the release of funds sanctioned for this illegal construction for the encroached land.

f) Issue a writ order or direction to the Respondent no. 8 (Site Contractor) to stop the ongoing construction work with immediate effect till the disposal of this petition.

g) Issue a writ order or direction in the nature of mandamus hereby directing respondent No. 9 (South Delhi Municipal Corporation) to take all necessary steps to stop the illegal construction over encroached land mentioned in the petition



and disciplinary action against all the officers who turned blind eye when the unauthorized construction was being raised.

h) Issue a writ order or direction in the nature of mandamus thereby directing respondent No.10 (Delhi Development Authority) to ensure safety of land adjacent to the encroached land by taking necessary steps in order to avoid any encroachment over it in future and submit a compliance report to that effect before this Hon'ble court.

i) Issue a writ order or direction in the nature of mandamus thereby directing respondent No.11 (DCP Law & Order),12 (DCP Traffic) & 13 (SHO , Police Station Shaheen Bagh) to ensure the maintenance of Law & Order and Traffic situation during & after the demolition of encroached site and take appropriate action against the responsible officers who turned blind eyes over this illegal construction.

j) Issue a writ order or direction in the nature of mandamus thereby directing respondent No.1 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 unauthorized.

k) Award cost of the present petition in favour of the petitioner.

l) Pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case."

2. We have heard learned counsels appearing on behalf of the parties and looked into the facts and circumstances of the case. Petitioner is aggrieved by the alleged illegal construction, as detailed in the writ petition, by Respondent No.6 herein and also seeks directions to Respondent No.1/Government of NCT of Delhi, to appoint the Lokayukt.

3. So far as illegal construction is concerned, we hereby direct the concerned Respondents Authorities to treat this Petition as a representation



and look into the grievances ventilated by the Petitioner. The decision shall be taken by the concerned Respondents, in accordance with law, rules, regulations and Government policies, applicable to the facts and circumstances of the case and after giving an adequate opportunity of hearing to all the stakeholders.

4. Needless to state, that in case the Respondents come to a conclusion that the construction is illegal and without the sanction of law, steps shall be taken to demolish the existing structures and no further construction shall be permitted.

5. Insofar as, the appointment of Lokayukt is concerned, the process in this regard is underway and no orders are required to be passed by the Court, at this stage.

6. Writ petition is hereby disposed of in the above terms.

CHIEF JUSTICE

JYOTI SINGH, J

FEBRUARY 23, 2022/rk