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

+ **W.P.(C) 3423/2023**

MANOJ KUMAR

..... Petitioner

Through: **Mr. M.S. Jadhav, Mr. A.A. Ansari,**
Advocates

versus

THE COMMISSIONER OF MCD & ANR.

..... Respondents

Through: **Mr. Ajjay Arora and Mr. Kapil Dutta,**
Standing counsel for MCD with Mr.
Vansh Luthra, Ms. Simran Arora,
Advocates

Mr. Prashant Manchanda, ASC with
Ms. Nancy Shah, Ms. Haridas Medha
Dilip, Advocates for R-2

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Date of Decision: 29th November, 2023

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

1. The present Public Interest Litigation (“PIL”) has been filed praying for a direction to the respondents to seal and remove the misuse of the residential properties as commercial in the residential area of Gautam Nagar, New Delhi – 110049. The petitioner has given a list of thirteen residential properties in the Gautam Nagar area, which according to him are being misused for commercial purposes in contravention to the building bye laws and in violation of the provisions of Master Plan of Delhi – 2021 (“MPD – 2021”).

2. Pursuant to Court notice, a Status Report has been filed on behalf of



the Municipal Corporation of Delhi (“MCD”) wherein it had been stated that the properties in question have been inspected through the Field Staff of the Building Department of the area in question. Show Cause Notices were issued to the said premises and replies were sought from them.

3. It has been stated on behalf of the MCD that the commercial use in ten of the properties, which form subject matter of the present petition, is being done upon deposit of requisite conversion charges. Attention of this Court has been drawn to Clause 15.6.3 of the MPD – 2021, which reads as under:

“15.6.3 [Small shops of maximum 20 sqm area each, restricted to maximum permissible number of DUs in the plot or four numbers, whichever is less, trading in or dealing with the following specified 24 items/ activities are allowed on ground floor only in residential plot, excluding A & B category of colonies. However, small shops of maximum 20 sqm area each, restricted to maximum permissible number of dwelling units in the plot or four in number, whichever is less, trading in or dealing with specified items / activities existing as on 7.2.2007 may continue on ground floor only in a residential plot in A & B category of colonies but in future only one small shop of 20 sqm area shall be allowed on ground floor in a residential plot in A & B category of colonies.]

- i) Vegetables / fruits / flowers*
- ii) Bakery items / Confectionary items;*
- iii) Kirana / General store;*
- iv) Dairy product;*
- v) Stationery / Books / Gifts / Book binding;*
- vi) Photostat / Fax / STD / PCO;*
- vii) Cyber café / Call phone booths;*
- viii) LPG booking office / Showroom without LPG cylinders;*
- ix) Atta Chakki;*
- x) Meat / Poultry and Fish shop;*
- xi) Pan shop;*
- xii) Barber shop / Hair dressing salon / Beauty parlour;*
- xiii) Laundry / Dry cleaning / ironing;*
- xiv) Sweet shop / Tea stall without sitting arrangement;*
- xv) Chemist shop / Clinic / Dispensary / Pathology lab;*
- xvi) Optical shop;*



- xvii) Tailoring shop;*
- xviii) Electrical / Electronic repair shop; and*
- xix) Photo studio;*
- xx) Cable TV / DTH Operation;*
- xxi) Hosiery / Readymade Garments / Cloth shop;*
- xxii) ATM*
- xxiii) Cycle Repair Shop*
- xxiv) Ration shop & Kerosene Shop under PDS.”*

4. Reading of the aforesaid clause shows that the MPD – 2021 clearly stipulates that small shops of maximum 20 square meter area each, dealing with the specified items/activities, as specified in the MPD – 2021, shall be allowed on ground floor in a residential plot in ‘A’ and ‘B’ category of colonies. Thus, it has been submitted on behalf of the MCD that except three properties, commercial use in other properties were found to be in consonance with Clause 15.6.3 of MPD – 2021.

5. It has further been brought to the notice of this Court by learned counsel appearing for MCD that commercial use in the two out of the three violating properties, have already been stopped. It is submitted that requisite action is required to be taken by the MCD only in one property, where a library is being run from the basement of the property. Learned counsel for the MCD assures this Court that requisite action shall be taken with regard to the violating property expeditiously. The said statement made on behalf of MCD is taken on record and MCD is held to be bound by the said statement.

6. This Court also takes note of the affidavit filed on behalf of the Delhi Police, wherein it has been stated that the MCD on 13th March, 2023 had undertaken a drive of taking action against the residential properties situated in the area of Gautam Nagar, which were being used for commercial purposes. For the said drive, Police assistance had been sought by the MCD



2023:DHC:8613-DB



authorities, which was duly provided by the Delhi Police and the drive was completed smoothly.

7. In view of the aforesaid, this Court is satisfied with the action taken on behalf of the MCD. Thus, no further orders are required to be passed by this Court. The present PIL is accordingly closed and disposed of.

ACTING CHIEF JUSTICE

MINI PUSHKARNA, J

NOVEMBER 29, 2023

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Signature Not Verified

Digitally Signed By: CHARU
CHAUDHARY
Signing Date: 02.12.2023
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W.P.(C) 3423/2023

Page 4 of 4