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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 02.11 2023

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Pronounced on: 06.11.2023

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W.P.(C) 8437/2022

AZAD MARKET RESIDENTS WELFARE ASSOCIATION

(REGD)

..... Petitioner

Through: Dr. M. K. Gahlaut, Advocate.

versus

MINISTRY OF HOME AFFAIRS AND ORS.

..... Respondent

**Through: Mr. Vineet Dhanda, CGSC for
Respondent No.1/ UOI.**

**Mr. Raghvendra Upadhyay, Panel
Counsel with Ms. Purnima Jain and
Mr. Vaibhav Trpathi, Advocates for
Respondent Nos. 2 to 5 and 9.**

**Mr. Manu Chaturvedi, Standing
Counsel for MCD.**

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

SATISH CHANDRA SHARMA, C.J.

1. The present petition has been filed as a public interest litigation (“PIL”) seeking directions from this Court to be issued to the Respondents

W.P.(C.) No.8437/2022

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in relation to *inter alia* (i) conducting a survey in order to identify unauthorized and illegal construction in the Azad Market, Delhi – 110006 (the “**Subject Area**”); and (ii) to take action against such properties situated in the Subject Area.

2. *Vide* the present PIL, the Petitioner has brought to the notice of this Court the presence of illegal and unauthorized constructions situated in the Subject Area (the “**Subject Properties**”). It is stated the Subject Properties have been constructed in contravention to the Unified Building Bye Laws, 2016 (“**UBBL 2016**”); the Delhi Municipal Corporation Act, 1957 (the “**Act**”); and other building laws in vogue including *inter alia* the Master Plan for Delhi, 2021 (“**MPD 2021**”). Furthermore, it has been contented that the Subject Properties have been constructed and are being occupied without obtaining an Occupancy Certificate (“**OCs**”) and / or necessary permissions under the Delhi Fire Safety Act, 2007 (the “**Delhi Fire Act**”) read with the Delhi Fire Service Rules, 2010 (the “**Delhi Fire Rules**”) (hereinafter the Delhi Fire Act and Delhi Fire Rules shall collectively be referred to as the “**Fire Norms**”). In this regard, instances of fire accidents were also brought to the attention of this Court wherein on account of flagrant violations of Fire Norms, precious lives of innocent persons were unfortunately lost.

3. Notice was issued in this matter on 26.05.2022, the Municipal Corporation of Delhi (“**MCD**”) filed a status report on 02.07.2022 (the “**MCD Status Report**”); the Delhi Fire Service filed an affidavit on 02.11.2022; and the Union of India filed an affidavit in the present PIL on 01.07.2023. Per the MCD Status Report, the MCD took action against illegal and unauthorized construction in the vicinity of the Subject Area which



included *inter alia* (i) sealing action under Section 345A of the Act qua approximately 200 identified points; (ii) booking of approximately 30 properties situated in the vicinity of the Subject Area under Section(s) 343 and 344 of the Act; and (iii) consequently, demolition of certain illegal and unauthorized construction as more particularly identified under the MCD Status Report were also carried out.

4. In our considered opinion, the grievance raised by the Petitioner has been sufficiently addressed by the MCD through the considerable efforts it has made in relation to clearing unauthorized and illegal construction in the Subject Area. However, this Court cannot turn a blind eye towards any potential violations of Fire Norms, accordingly the MCD and the Delhi Fire Services are directed to ensure scrupulous and rigorous enforcement of the Fire Norms pertaining to premises specified under Rule 27 of the Delhi Fire Rules. In this regard, the MCD shall endeavor to conduct regular monitoring of the Subject Area to ensure that persons found violating the Fire Norms are promptly identified and referred to the Fire Prevention Wing under Rule 34 of the Delhi Fire Rules.

5. Furthermore, in the future if stray individual cases of unauthorized and illegal construction are found dotting the Subject Area, the Petitioner may approach the Special Task Force constituted by the Ministry of Housing and Urban Affairs, Government of India¹ (the “STF”) pursuant to the orders of the Hon’ble Supreme Court of India in W.P.(C) 4677/1985². Pertinently, the STF is empowered with the responsibility to look into the matters and /

¹ Constituted vide Office Memorandum No. O-33011/1/2006-DDI dated 25th April, 2018

² Titled M.C. Mehta v. Union of India & Ors., orders dated 24th April, 2018 and 18th July, 2018.



or complaints concerning illegal constructions, encroachment on public land/ streets, pedestrian streets etc. and take appropriate action, in accordance with law. Accordingly, we dispose of the present petition, with liberty to the Petitioner to approach the STF if the need so arises.

6. It is needless to mention that in case the Petitioner approaches the STF, they shall make all possible endeavors to dispose of the matter as expeditiously as possible.

7. With the aforesaid, the PIL stands disposed of along with pending applications (if any).

(SATISH CHANDRA SHARMA)
CHIEF JUSTICE

(TUSHAR RAO GEDELA)
JUDGE

NOVEMBER 06, 2023