



2023:DHC:9467



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

% **Date of order :18<sup>th</sup> December, 2023**

+ **W.P.(C) 14918/2023**

**M.A. BURNEY** ..... Petitioner

Through: **Mr.Subhash Chand, Advocate**

versus

**SPECIAL TASK FORCE THROUGH SECRETARY, AND ANR**

..... Respondents

Through: **Ms.Manika Tripathy, Advocate**

**CORAM:**

**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

**ORDER**

**CHANDRA DHARI SINGH, J (Oral)**

1. The petitioner vide the present petition under Article 226 of the Constitution of India, seeks the following reliefs:

*“1. To direct the respondent no 1 to file the status report regarding REFERENCE I.D. SNS2023083146F*

*2. To ORDER a court monitored verification of sanctioned building plan and monitoring of running construction activities ON PROP NO 7, BAHADUR SHAH ZAFAR MARG, PRESS AREA, ITO NEW DELHI 110002. ”*

2. The petitioner is the owner of Aman News Channel and Chief Editor of a Hindi News Publication named Aman News, operating his office from



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4<sup>th</sup> Floor 407/A Milap Bhawan, Bahadur Shah Zafar Marg, Press Area, New Delhi-110002. Since the past 7 years, the petitioner has been witnessing illegal and continuous construction of property bearing No. 7, Bahadur Shah Zafar Marg, Press Area, ITO, New Delhi-110002 (hereinafter “property in question”) and in light of the same, the petitioner approached this Court by way of writ petition bearing No. 4028/2023, which was disposed of vide order dated 18<sup>th</sup> August, 2023.

3. By virtue of the aforesaid order the petitioner was granted liberty to approach the “Special Task Force” (hereinafter “STF”), which was constituted to redress grievances of illegal/unauthorized construction as per the guidelines laid down by the Hon’ble Supreme Court in the case of *M.C Mehta vs Union of India*, WP (C) 1807/2018 dated 24<sup>th</sup> April, 2018 and 18<sup>th</sup> July, 2018.

4. Pursuant to the order dated 18<sup>th</sup> August, 2023 the petitioner approached the STF on 21<sup>st</sup> August, 2023, thereby, making his representation which was duly acknowledged by the STF on the same date.

5. Further, the petitioner also lodged grievances of illegal/unauthorized construction at the aforesaid property through the online portal of the STF, whereby, the complaint was duly registered vide the reference ID no. SNS2023083146F.

6. Additionally, the petitioner had previously filed writ petition bearing No. 13626/2023, which was disposed of in terms of the submission of the respondent no.1 herein that the matter had already been referred to the



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Municipal Corporation of Delhi (hereinafter “MCD”) to file a status report alongwith the sanctioned plan pertaining to the property in question.

7. Aggrieved by the non-action at the hands of the STF, the petitioner has preferred the instant petition.

8. Learned counsel appearing on behalf of the petitioner submitted that the STF was created as per the guidelines laid down by the Hon’ble Supreme Court, in order to curb illegal/unauthorized construction, but the said task force is not performing its duty.

9. It is submitted that the petitioner has been running from pillar to post to apprise the concerned authorities about the said illegal construction, however, no action has been taken in the same regard.

10. It is further submitted that the petitioner has lodged multiple complaints under multiple provisions of the Municipal Corporation of Delhi Act, 1957, however has not been granted any relief.

11. It is submitted that this Court has been pleased to decide various writ petitions on grounds similar to the instant petition, whereby, the aggrieved parties have been directed to approach the STF with their grievances.

12. In view of the foregoing submissions, it is prayed that the instant petition is allowed.

13. *Per contra*, learned counsel appearing on behalf of the respondents submitted that at the outset the petitioner has no *locus standi* to file the instant petition.

14. It is submitted that despite having no *locus standi*, the petitioner has been filing frivolous writ petitions, thereby, abusing the due process of law.



15. It is submitted that the petitioner has failed to produce any document or evidence that proves that his fundamental right has been violated.

16. It is submitted that the petitioner is residing in the building in the adjoining area and the property wherein the petitioner is residing is not undergoing any construction and hence, the petitioner has no *locus standi* to approach this Court.

17. In view of the foregoing submissions, it is prayed that the instant petition may be dismissed.

18. Heard the counsel appearing on behalf of the parties and perused the record.

19. It is the case of the petitioner that there has been a continuous illegal and unauthorized construction at the property in the areas adjoining the building wherein the petitioner is conducting his business. It is contended that the petitioner had been previously directed to approach the STF with regards to the alleged illegal/unauthorized construction by this Court; however, the petitioner was never granted any relief. Aggrieved by the non-action at the hands of the STF the petitioner has preferred the instant petition.

20. In its opposing submissions, the DDA questions the petitioner's *locus standi*, asserting that the petitioner is not an aggrieved party. Consequently, they argue that the petitioner cannot seek the reliefs outlined in the pleadings through this Court's extraordinary writ jurisdiction. The respondents request the dismissal of the petition.



21. Since a preliminary question has been raised by the petitioner with regard to the locus of the petitioner, therefore, before delving into the merits of the instant petition, it is imperative to analyse whether the petitioner has any *locus standi* with regards to the illegal construction at the property in question.

22. The Hon'ble Supreme Court, in case titled ***Jasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed***, (1976) 1 SCC 671, has analysed at length on the principle of individuals who have the *locus standi* to invoke the writ jurisdiction of Courts. The relevant portion of the same has been reproduced herein:

*“34. This Court has laid down in a number of decisions that in order to have the locus standi to invoke the extraordinary jurisdiction under Article 226, an applicant should ordinarily be one who has a personal or individual right in the subject-matter of the application, though in the case of some of the writs like habeas corpus or quo warranto this rule is relaxed or modified. In other words, as a general rule, infringement of some legal right or prejudice to some legal interest inhering in the petitioner is necessary to give him a locus standi in the matter, (see State of Orissa v. Madan Gopal Rungta [1951 SCC 1024 : AIR 1952 SC 12 : 1952 SCR 28] ; Calcutta Gas Co. v. State of W.B. [AIR 1962 SC 1044 : 1962 Supp (3) SCR 1] ; Ram Umeshwari Suthoo v. Member, Board of Revenue, Orissa [(1967) 1 SCA 413] ; Gadde Venkateswara Rao v. Government of A.P. [AIR 1966 SC 828 : (1966) 2 SCR 172] ; State of Orissa v. Rajasaheb Chandanmall [(1973) 3 SCC 739] ; Satyanarayana Sinha Dr v. S. Lal & Co. [(1973) 2 SCC 696 : (1973) SCC (Cri) 1002] )...*

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*39. To distinguish such applicants from “strangers”, among them, some broad tests may be deduced from the conspectus made above. These tests are not absolute and ultimate. Their efficacy varies according to the circumstances of the case, including the statutory context in which the matter falls to be considered. These are: Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense, that his interest, recognised by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person “against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something?”*

*Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the statute, in the context of which the scope of the words “person aggrieved” is being considered, a social welfare measure designed to lay down ethical or professional standards of conduct for the community? Or is it a statute dealing with private rights of particular individuals.”*

23. A perusal of the aforesaid judgment makes it evident that in order to invoke the writ jurisdiction of this Court, the individual seeking the relief must have a personal interest or some legal/fundamental right and the same must have been infringed upon by the State or Other Authority under Article 12 of the Constitution of India. The doctrine of *locus standi* has been defined as a mechanism to prevent a stranger from being a party to a



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dispute and interfering in the same without having any right to do so. It is well settled that the parties aggrieved by an act have a vested right to file a case, however, the settled law also excludes the parties who are strangers to the dispute.

24. At this juncture, it is apposite to revisit the settled law with regards to issuance of the writ of mandamus. As reiterated by the Hon'ble Supreme Court and this Court in a catena of judgments, the writ of mandamus is a writ defined as a command which can be issued in favour of a person being successful in establishing a legal right on violation of the said right by an entity/individual entrusted to perform the legal duty. Therefore, establishment of such a right is a condition mandatory for issuance of the writ of mandamus.

25. Simply put, Mandamus means 'a command'. A writ of mandamus is issued in favor of a person who establishes a legal right in himself. A writ of mandamus is issued against a person who has a legal duty to perform but has failed and/or neglected to do so. Such a legal duty emanates from either in discharge of a public duty or by operation of law.

26. In order to conclude the analysis on the issuance of writ of mandamus as prayed by the petitioner, it is important to take into consideration the settled law in context of whether this Court can grant a relief when the petitioner has failed to establish its *locus standi*.

27. Moreover, the writ jurisdiction of this Court is a matter of discretion. Article 226 of the Constitution grants the High Court the authority to issue



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directions, orders, or writs, including habeas corpus, mandamus, prohibition, quo warranto, and certiorari, to any person or authority, including the Government, within its territorial jurisdiction. This power is conferred for the enforcement of fundamental rights and any other specified purpose. As elucidated in *Dwarkanath v. ITO, Kanpur, (1965) 3 SCR 536*, the framers of the Constitution intentionally drafted the article with comprehensive language, empowering the High Court to address injustice wherever it may arise.

28. In light of the facts of the instant case, it is observed by this Court that the petitioner is not residing or operating his business from the property in question and he has advanced arguments that he is aggrieved by certain construction activities that have been ongoing in the areas adjoining the petitioner's place of work.

29. This Court is of the view that even though, the petitioner might be aggrieved by the same; it does not accord him any right to approach this Court under its writ jurisdiction. This Court has drawn its inference from the fact that admittedly, the petitioner has failed to bring on record any documentary evidence in order to prove that he had a legal or fundamental right vested in him, thereby, making him an aggrieved party as a result of the alleged construction being carried out at the property in question.

30. Furthermore, the petitioner has also failed to bring on record any material to show that the petitioner's fundamental or legal right has been infringed upon by the alleged illegal construction and purported non-action on behalf of the respondent.



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31. Therefore, at this stage, since it has been deliberated that none of the petitioner's vested legal or fundamental right has been infringed upon by the respondents, the present petition cannot be entertained under the extraordinary writ jurisdiction of this Court in view of the preliminary objection raised by the respondents that the petitioner does not have any *locus standi* to file the present writ petition.

32. In view of the discussions of facts, law and observations made by this Court in the preceding paragraphs, this Court finds no force in the propositions put forth by the petitioner. It is hereby, held that the petitioner does not have any locus to seek the reliefs sought by way of the instant petition, therefore, the same is liable to be dismissed at the threshold.

33. Accordingly, the instant petition stands dismissed along-with pending applications, if any.

34. The order be uploaded on the website forthwith.

**CHANDRA DHARI SINGH**

**DECEMBER 18, 2023**  
**SV/DS/RYP**

*Click here to check corrigendum, if any*