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

+ W.P.(C) 1099/2024, CM APPLs. 4624/2024, 17876/2024,
30350/2024, 46459/2024 & 54315/2024

DR RANA TABASSUM

.....Petitioner

Through: Mr.Rajmangal Kumar and
Ms.Sangeeta Kumari, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.Respondents

Throu gh: Mr.Apoorv Upmanyu and Mr.Arjun
Mahajan, SC for MCD.
Mr.Mehak Nakra, ASC for
GNCTD/R-2.
Mr.Amit Garg, Adv for R-3.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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17.09.2024

1. The petitioner in the instant writ petition seeks for the following reliefs:-

"a) Issue the writ of mandamus or any other appropriate writ or directions to the respondents No.1 to take strict action under the relevant provisions i.e under section 343 and 344 of the DMC Act, 1957 against the respondent No.3 in respect of un-authorized construction at roof of the property bearing No. B-2/3 Safdarjung Enclave Extension, New Delhi 110029, and/or to seal the unauthorized construction at the roof of 3rd floor of the above said property, under section 345A of the DMC Act, 1957 and/or,

(b) Direct the respondents No. 1 to demolish the unauthorized construction raised at roof of the 3rd floor property bearing No. B-2/3, Safdarjung Enclave Extension, New Delhi-110029, as well as remove the encroachment and/or,



(c) Direct the respondent No. 2 to provide adequate police assistance to the respondent No. 1 at the time of demolition of the unauthorized construction at the roof of 3 floor of property bearing No. B-2/3, Safdarjung Enclave Extension, New Delhi-110029 and/or;

(d) Direct the respondent No. 3 to get the disrupted drainages system be repaired with immediate effects to avoid further seepage of water and damages to the property of the petitioner due to unauthorized construction at the roof of the 3 floor of the property bearing No. B-2/3, Safdarjung Enclave, New Delhi 110029, and due to alteration in the basic structure of the 3rd floor of the above said property and/or;

(e) Ex-Parte order in terms of prayer (d);"

2. In pursuance to the directions passed by this Court, the respondent, by way of further Status Report dated 12.08.2024, has stated that the property was booked for unauthorised construction. On 30.07.2024, the action was planned, however, on account of non-availability of police force the same could not be taken. On 07.08.2024, upon availability of the requisite police force, roof of one room (*porta cabin*) has been removed and the whole terrace/fourth floor has been made uninhabitable.

4. The relevant portion of the Status Report dated 12.08.2024 reads as under:-

"3. That upon noticing that the owner / occupier of the subject bearing House No. B-2/3, Safdarjung Enclave Extn., New Delhi has not removed the alleged booked unauthorized construction completely herself. Taking note of the same, the Building Department of South Zone-MCD has further tried / taken / carried out the necessary demolition action as per details given herein below:-

S.No.	Date of Action	Action taken
1	30/07/2024	Action could not be taken due to non-availability of police force.
2	07/08/2024	Upon availability of police force, roof of balance one room (Porta cabin) has been removed and the whole terrace / fourth floor has been made uninhabitable.

Photographs taken during the aforesaid demolition action along with copy of no force letter are annexed herewith as **Annexure -A(Colly)**.



4. That after taking the aforementioned demolition action a letter dated 07/08/2024 has also been sent to concerned SHO, PS. Safdarjung Enclave, New Delhi with the request to direct the area patrolling staff to keep strict watch and ward over the subject property so that the demolished portion may not be re-stored / repaired / reconstructed. Copy of the said letter is also annexed herewith as **Annexure -B.**

5. Learned counsel appearing on behalf of the petitioner, on the other hand, indicates various grievances with regard to the said status report and states that he has placed on record an affidavit of objection. He, through exhibiting certain photographs, indicated that the action taken as stated in the further status report/action is merely an eyewash. According to the petitioner, the entire demolition action of the unauthorised construction has not taken place.

6. Learned counsel appearing on behalf of the private respondent submits that they have approached the Appellate Tribunal - Municipal Corporation of Delhi (AT-MCD) against the action taken by the respondent-MCD.

7. The Court, at this stage, takes note of the decision passed by the Supreme Court in the case of ***M.C.Mehta v. Union of India*** and pursuant thereto, notification dated 08.03.2019 issued by the Delhi Development Authority constituting Special Task Force [STF].

8. A similar view has been taken by this Court in order dated 30.08.2024 in W.P. (C) 12033/2024 titled as ***Pravin Singhal v. Municipal Corporation of Delhi and Ors.***, wherein, this Court has taken note of the scope of the STF and held as under:-

“6. It is discernible from the aforesaid notification that STF has been constituted with an aim of comprehensively addressing the issue of illegal construction and encroachment, including on public land, parking spaces,



roads, pavements, etc., and to oversee the enforcement of provisions of MPD-21 and the Unified Building Bye Laws for Delhi. The composition of STF would indicate that the same consists of various Officers from different Departments, including municipal, civic, revenue and law enforcement agencies. The Vice Chairman of DDA is the Chairman of STF and the Commissioner (Planning) of DDA appears to be its Member Secretary.

7. The said notification further stipulates that STF shall meet at least once every month. Additionally, the monthly report of STF is required to be sent to the Hon'ble Lieutenant Governor of Delhi, the Ministry of Housing and Urban Affairs, GoI, and the Secretary of the Ministry of Environment, GoI, who are also required to review the progress achieved quarterly and assess future plans. In essence, STF has been vested with comprehensive powers to regulate construction activities and to act decisively against the erring builders, officials, encroachers, violators of building norms etc.

14. In LPA 245/2019 titled as **Sneh Lata & Anr. v. North Delhi Municipal Corporation & Anr.**, the Division Bench of this Court, while highlighting the composition and functioning of STF, has held that STF is a specialised agency which offers an alternate efficacious remedy to the litigants aggrieved by the unauthorised construction. The relevant paragraphs of the said decision are reproduced as under:-

“The Special Task Force comprises 15 members from various municipal, civic, revenue and law enforcement agencies of Delhi; and even has its own dedicated website and mobile application to facilitate making of complaints. The Special Task Force is therefore a specially constituted agency to address grievances relating inter-alia to unauthorised construction; and an aggrieved person may avail the alternate, efficacious remedy before the Special Task Force.

In view of the setting-up of the Special Task Force under directions of the Supreme Court even the respondent No.2 has a forum to agitate any grievance that may remain. It is therefore not appropriate for our court to exercise its appellate jurisdiction in the matter.

Accordingly, the appellants are free to avail their statutory remedies before the ATMCD in respect of action initiated by the corporation by issuing notices under Delhi Municipal Corporation Act, 1957. On the other hand respondent No.2 may, if aggrieved, approach the alternate forum of the Special Task Force to seek amelioration of any grievances or invoke any other remedy available under law. Accordingly, parties may resort to the appropriate remedy, as



they may be advised.”

*15. A similar view has been taken by the Division Bench of this Court in a Public Interest Litigation being W.P. (C) 8104/2022 titled as **Himanshu v. East Delhi Municipal Corporation & Anr.**, in W.P. (C) 4649/2017 titled as **Fazruddin v. DDA & Ors.**, in W.P. (C) 5988/2019 titled as **Jaladhar Das v. North Delhi Municipal Corporation & Ors.** and in W.P. (C) 11873/2023 titled as **RWA Sunlight Colony v. GNCTD & Ors.**”*

9. In view of the aforesaid, instead of keeping this petition pending on the Board of this Court, grants liberty to the petitioner to approach the STF by way of proper representation, along with the copy of this order, in event the petitioner is of the opinion that the respondent-MCD has not taken the action in its entirety.

10. If the petitioner does so, let the grievance of the petitioner be dealt with by the STF, in accordance with law, as expeditiously as possible. The petitioner is entitled to place reliance on the Status Report and the pleadings filed by the respondents in this case before the STF.

11. With the aforesaid liberty, the instant writ petition along with pending application stands disposed of.

12. With respect to the pecuniary loss which the petitioner claims to have suffered on account of the unauthorised construction by the private respondent, the petitioner shall be at liberty to file a civil suit for necessary damages.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 17, 2024/MJ