



2024 : DHC : 788-DE



\$~31

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

+ **LPA 85/2024, CAV 45/2024, & CM APPL. 5885/2024**

**RESIDENT WELFARE ASSOCIATION WEST JYOTI NAGAR
EXTN** Appellant

Through: **Mr. Nalin Kaushik and Mr. Tarun
Vijayran, Advocates**

versus

MUNICIPAL CORPORATION OF DELHI AND ORS

..... Respondents

Through: **Mr. Dhan Mohan, Standing Counsel
for MCD with Ms. Tanisha Bhatia
and Ms. Anjali Pandey, Advocates for
MCD**

**Mr. Arun Panwar, Advocate for Delhi
Police**

**Ms. Gurmeet Bindra, Ms. Priya Deep
and Mr. Srivats Kaushal, Advocates
for Caveators**

**SI Joginder Singh, Parvi Officer
Traffic and Insp. Dalip Kumar, T.I.
Nandnagri, Traffic Circle**

%

Date of Decision: 1st February, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, ACJ: (ORAL)

**CM APPL. 5886/2024 (for exemption)**

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

Cav.45/2024

Since the Caveator has entered appearance, the caveat stands discharged.

LPA 85/2024

1. Present Letters Patent Appeal has been filed impugning the order dated 18th December, 2023, passed in W.P.(C) No. 16322/2023, whereby the learned Single Judge declined to stay the operation of the demolition order dated 13th January, 2023, and speaking order dated 12th May, 2023 passed by Respondent No. 1, Municipal Corporation of Delhi ('MCD'), calling upon the Appellant, Resident Welfare Association West Jyoti Nagar Extension ('Association'), to remove the iron gate installed at Gali No. 6, D-Block, West Jyoti Nagar, East Delhi-110009 ('Iron Gate').
2. At the outset, learned counsel for the Appellant Association states that in compliance with the Respondent No. 1-MCD's, order directing demolition of the Iron Gate and the impugned order passed by the learned Single Judge, the Appellant Association has itself removed the Iron Gate.
3. He states that however, the Appellant Association is aggrieved by the direction for demolition issued by Respondent No. 1- MCD, inasmuch as the said Respondent on an earlier occasion on 18th September, 2020, had regularized the installation of the said Iron Gate. He states that Traffic Inspector as well forwarded his report dated 31st August, 2020 giving clearance. He states that the said report of the Traffic Inspector was also



approved by the concerned DCP, Traffic, on 01st September, 2020. He further relies upon the recommendation of the SHO of the concerned Police Station. He states that in view of the above clearances granted by all concerned authorities, the Respondent No. 1- MCD, could not have revoked its permission dated 18th September, 2020.

4. In reply, learned counsel for Respondent No. 1- MCD, states that the Respondent No. 2- Delhi Traffic Police, has not granted recommendation for installation of the Iron Gate in favour of the Appellant Association and therefore, Respondent No. 1- MCD, has revoked its permission.

5. The learned counsel for the Caveator, Sh. Rahimudin, states that the caveator is a resident of the same locality and is being wrongly referred to as an outsider in the pleadings and arguments.

6. This Court has considered the submission of the parties and perused the record.

7. The Appellant has neither assailed the demolition order dated 13th January, 2023, nor the speaking order dated 12th May, 2023, passed by Respondent No.1- MCD. The order of the MCD dated 18th November, 2021, revoking its earlier permission for installation of the Iron Gate now stands merged with the subsequent orders and has become final.

8. The statement of Delhi Traffic Police that it has not granted No Objection Certificate ('NOC') to the Appellant Association for restoration of the Iron Gate has not been traversed. The Appellant Association relies upon the inspection report dated 30th August, 2020, prepared by the Traffic Inspector as the evidence of NOC by the Traffic Police. However, in view of the stand taken by the said Respondent No.1- MCD, the said inspection report in the absence of a formal NOC cannot be accepted and no inference



can be drawn in favour of the Appellant.

9. With the removal of the Iron Gate the only surviving prayer in the writ petition was a direction for amendment of the Standing Order policy letter no. 382/2009. However, as recorded in the impugned order the said Standing Order has been superseded by Standing Order No. 06/2022. Therefore, the said prayer also does not survive for consideration.

10. In the aforesaid facts and circumstances, nothing survives for consideration and the Appellant's right to apply afresh for permission has already been reserved by the learned Single Judge. There is therefore, no merit in the present appeal and the same alongwith applications stand dismissed.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 1, 2024/hp

Click here to check corrigendum, if any