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

+ **W.P.(C) 1634/2023**

IQBAL SINGH

.....Petitioner

Through: None.

versus

ADDITIONAL DISTRICT MAGISTRATE

.....Respondent

Through: Mr. Rishikesh Kumar, ASC with Ms. Sheenu Priya, Mr. Atik Gill, Mr. Sudhir Kumar Shukla and Mr. Sudhir, Advocates.

Mr. Maulik Khurana, Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

20.09.2024

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1. There has been no appearance on behalf of the Petitioner for the last one year, as noticed from the orders dated 5th September, 2023, 30th January, 2024 and 17th May, 2024. This absence persists today, with no representation for the Petitioner. Nevertheless, with the assistance of counsel for the Respondents, the Court has perused the file and considered their submissions.

2. The instant petition seeks directions to Respondent No. 1, the Additional District Magistrate, Kapashera, New Delhi to provide the Petitioner certified copies of the case titled '*Goan Sabha, Bijwasan vs. Ballu Ram & Ors.*' and order dated 28th February, 2023. The case of the Petitioner



is that despite multiple visits to the office of the Respondent and repeated representations addressed to them, the certified copies of the file have not been provided to him.

3. Mr. Balram Meena, Additional District Magistrate, Kapashera, New Delhi, has filed an affidavit, deposing that the case file requested by the Petitioner could not be located, despite sincere efforts on part of Respondent No. 1. In light of this situation, the Court issued the following directions on 6th March, 2023:

“1. This hearing has been done through hybrid mode.

2. The present petition has been filed seeking certified copies of the case file ‘Gaon Sabha, Bijwasan vs. Ballu Ram & Ors.’ bearing Appeal No. 148/03 having Case ID 14758. The case of the Petitioner is that despite repeated visits to the office of the Respondent and repeated representations being written, the certified copies are not being issued.

3. Copy of the affidavit filed on behalf of the GNCTD, is taken on record. Let the copy of the original counter affidavit be placed on record by Mr. Rishikesh Kumar, ld. Counsel.

4. As per the affidavit deposed by Mr. Balram Meena, Additional District Magistrate, Kapashera, New Delhi which has been handed over today, it appears that an order was passed in this matter on 28th February, 2022. The Petitioner applied for a copy of the same on 22nd March, 2022. However, no copy was provided. The said alleged order dated 28th February 2022 has still not been produced even before this Court. Today, the affidavit placed on record of Mr. Meena is to the effect that the file was consigned to the record room and upon searching, the same could not be traced. It is also claimed that an office order dated 20th December 2022 had been issued by the deponent directing all the SDMs concerned to search the file in their respective offices. However, despite repeated efforts, the same file could not be traced.

5. Further, upon perusing through the counter affidavit it is seen that the dispatch register does not match as to when the file was consigned to the record room. The typed chart claims that the record was sent on 8th March, 2022 to Mr. Mukesh Patwari (Record Keeper, Kapashera). The Bailiff - Mr. Ravindra Kumar, who is present in Court submits that the Patwari was Mr. Manoj Kumar at the relevant point of time. It is noticed by this Court that in a large number of matters, records are going missing



from the offices of the Sub-Registrars and other officials. Repeatedly the Court is taking notice of the same and enquiries are being directed. This is a matter of serious concern and the officials are behaving in a callous and casual manner. Considering that these are valuable lands which these documents relate to, the missing of such records has a significant bearing on rights of citizens and there is a threat of misuse of the documents.

6. *Considering the above, the following officials shall be present in Court at the next date of hearing:*

- i) Mr. Balram Meena - current ADM, South-West District, Kapashera, New Delhi;*
- ii) Mr. Rakesh Dahiya, ADM, South West who has allegedly passed the order dated 28th February, 2022 irrespective of wherever he is posted currently;*
- iii) Mr. Manoj Kumar Patwari (Kanungo), Kapashera who is stated to have received the file on 8th March, 2022;*
- iv) Mr. Mukesh Patwari, the Record Keeper (Kapashera) whose name is mentioned in the typed chart handed over to the Court in the counter affidavit filed today.*

7. *The above officials shall carry the original file relating to the property, subject matter of the present petition.*

8. *In addition, the original dispatch register shall also be produced on the next date of hearing.*

9. *A clear affidavit shall also be placed on record stating as to who were the officials who passed the order dated 28th February, 2022 along with the copy of the said order shall also be placed on record. The present position of the said official who had passed the order dated 28th February, 2023 shall also be placed on record.*

10. *List on 10th April, 2023 on top of the board at 10:30 a.m."*

4. Thereafter, this Court, by order dated 20th April, 2023, recorded the statement of Mr. Rakesh Dahiya, the Additional District Magistrate responsible for maintaining the record in question, and issued further directions to him. Additionally, the Court impleaded the Ministry of Home Affairs as Respondent No. 2, instructing them to investigate the issue regarding the missing records and submit a report to the Court.



5. In compliance with the aforementioned directions, the Ministry of Home Affairs has submitted a status report dated 9th November, 2023, which includes the findings of the enquiry conducted by the Under Secretary to the Government of India. The enquiry report presents the following findings and conclusions:

“3. FINDINGS:

3.1 *The undersigned visited the office of District Magistrate (South-West) on 08.06.2023 and 12.06.2023. The details relating to the matter under consideration were discussed with the DM (South-West) and ADM (South-West). It was informed that Sh. Manoj Kumar was the concerned Patwari and Sh. Ravinder Kumar was the concerned Bailiff at that time. However, Sh. Manoj Kumar was transferred and presently not posted at DM (South-West) Office. Sh. Ravinder Kumar was present.*

3.2 *Sh. Ravinder Kumar stated that he had searched all the records and could not trace the concerned file. The room where records were kept was visited and from the “File Consign Register”, it was seen that files from S. No. 63 to 76 were received by the Record Keeper, Sh. Manoj Kumar Patwari on 08.03.2022. The concerned file featured at S. No. 69 in the said list. From the record, it was further observed that one more file was not available in the bundle which incidentally had the same date of Order as the file under consideration.*

3.3 *Some mismanagement was observed in the management of records which was, however, mainly due to space constraints and shortage of regular staff. Sh. Ravinder Kumar, Bailiff was the only person managing the records and he also stated that on a regular basis, half of his day is occupied with works related to ADJ Court, Dwarka and High Court, which requires his physical presence at the Hon'ble Court(s). Sh. Ravinder Kumar was asked to re-check the complete records, especially keeping in the mind other files which were dealt during the same period, i.e. when the aforesaid appeal No. 14/03 was decided vide order dated 28.02.2022.*

3.4 *On 12.06.2023, Sh. Manoj Kumar was also called to the office of DM (South-West). He informed that he had the additional charge of record keeper for 02 months. Simultaneously, Sh. Ravinder Kumar was searching the files and he informed that the file has been traced. The file was found mixed up with some other files in the almirah related to Bharthal area which were also dealt during the said period.*

4. CONCLUSION:



Since the file was traced, the concerned officers were verbally requested to apprise the same to the Hon'ble Court and also to provide the copies to the applicant as per the procedure and rules applicable. A copy of the relevant file, as provided by the office of DM (South-West), is also enclosed with this report."

6. The Court is further informed that the order dated 28th February, 2022, pertaining to the case file in question, has been digitised and uploaded on the portal, as indicated in Paragraph No. 3 of the affidavit filed by Mr. Dahiya, which states as under:

"3. That order dated 28.02.2022 was uploaded on the portal on 04.03.2022 and after uploading the order, the reader dealt with office case file as per the protocol and the file was consigned to the record room on 08.03.2022 The details of the order uploaded online and record room register is annexed as ANNEXURE-A and ANNEXURE-B."

7. In light of the developments noted above and the tracing of the file, the order and record sought by the Petitioner are now available to him. Consequently, the Court is inclined to close the present proceedings. However, in view of the enquiry report submitted by the Ministry of Home Affairs, the relevant authorities are instructed to implement stringent protocols for the preservation and management of all case files and records to prevent any future occurrences of missing documents.

8. With the above directions, the present petition, along with pending application(s), if any, is disposed of.

SANJEEV NARULA, J

SEPTEMBER 20, 2024

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