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

+ **W.P.(C) 4263/2024**

PRITPAL SINGH

.....Petitioner

Through: Mr. Manish Choudhary, Mr. Rajat
Yadav and Ms. Kirti Bhati, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Ms. Meenakshi Midha, Adv. for R-1
Mr. Farman Ali Magrey, Sr. Panel
Counsel with Ms. Usha Jamnal, Adv.
for R-2 and 3 with SI Jaipal Singh
and ASI Devender
Mr. Tushar Sannu, Adv. for GNCTD
with Mr. Manoviraj Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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30.08.2024

CM APPL 50083/2024 (delay in filing affidavit)

1. The present application has been filed under Section 151 CPC on behalf of respondent No.2 seeking condonation of delay of 93 days in filing the affidavit.
2. For the reasons stated in the application, the same is allowed and the delay of 93 days in filing the affidavit stands condoned. The affidavit is taken on record.
3. The application stands disposed of.

W.P.(C) 4263/2024

1. While entertaining the instant writ petition and in terms of the



subsequent order, the Court directed the MCD and Police to conduct inspection and to file Status Report.

2. The Status Reports have been placed on record by the respective respondents and they have narrated various actions taken by the said authorities. The petition, however, is for the removal of alleged encroachment by the hawkers, makeshift dhaba owners, auto rickshaw owner/driver and owners/driver of heavy vehicle allegedly encroaching the public road.

3. Looking at the nature of the prayer, the Court finds that the same would require issuance of continuing mandamus, which normally the High Court does not resort to, unless the facts and circumstances so warrant. This Court in W.P. (C) 4206/2024 has held as under:-

“6. It is well-established that while the Court is vested with extraordinary jurisdiction under Article 226 of the Constitution of India, the essence of the remedy of continuing mandamus lies in eliminating the uncertainties of adjudication. This remedy empowers courts to supervise, superintend, and intervene to actualize specific socio-economic rights and rectify administrative non-compliance.

7. Examining the prevailing jurisprudence, the remedy of continuing mandamus is invoked exclusively in exceptional circumstances where persistent executive recalcitrance obstructs the delivery of justice. In such instances, judicial follow-up becomes imperative in accordance with the Court’s constitutional and moral obligations to uphold the rule of law.”

8. The nature of grievance which has been raised in the instant petition can very well be agitated before the STF. *Vide* an order passed today in W.P. (C) 12033/2024 titled as ***Pravin Singhal v. Municipal Corporation of Delhi and Ors.***, this Court has examined the scope, role and functions of STF constituted by the DDA *vide* notification dated 08.03.2019 and has 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.**”*

4. In view of the above, the Court, at this stage, deems it appropriate to direct the petitioner to approach the STF for ventilation of his grievance, if any. The STF in turn is directed to deal with the same, in accordance with law, with due expedition.

5. With the aforesaid observations, the petition stands disposed of. All rights and contentions are left open.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 30, 2024

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