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

+ W.P.(C) 11259/2023, CM APPL. 43841/2023, CM APPL. 47798/2023, CM APPL. 61719/2023, CM APPL. 12230/2024 & CM APPL. 49239/2024

HARISUL HAQ

.....Petitioner

Through: Dr. Amit George, Mr. A. Suri, Ms. Rakshita Goyal, Advocates.

versus

JAMIA MILLIA ISLAMIA & ORS.

.....Respondents

Through: Mr. Pritish Sabharwal, Standing Counsel with Mr. Sanjeet Kumar, Mr. Sharad Pandey, Ms. Shweta, Advocates for R-1.
Mr. Srish Kumar Mishra, Mr. Alexander Mathai Paikaday, Mr. Sagar Mehlawat, Advocates for UOI.
Mr. Mobashshir Sarwar, Advocate for R-4 & 6.
Mr. Huzefa Ahamed, Senior Advocate with Mr. Prithu Garg, Mr. Shivang Chaturvedi, Mr. Parth Bhatia, Mr. Shivam Singh, Mr. Rohan, Advocates for R-8
Mr. Shashwat Bajpai, Mr. Mahir Khanna, Advocates for R-9

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
02.09.2024

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1. The Petitioner, an alumnus of Jamia Millia Islamia and currently



employed as a Physical Education Teacher at Jamia Middle School, raises his grievance concerning the No-Objection Certificate (NOC) dated 21st August, 2023¹, issued in favour of Ms. Zakia Zaheer/ Respondent No. 8, with respect to property admeasuring 855.50 sq. yards bearing Municipal No. 267-A, Khasra No. 493/143 and 496/143, Village Okhla, New Delhi-110025.

2. The Petitioner contends that Jamia Millia Islamia University has acted in an arbitrary manner, devoid of rational consideration, by issuing the Impugned NOC. He argues that the NOC is not only irrational and illogical but also contrary to public interest. He emphasizes that the University holds valuable rights over the subject land, including the right of pre-emption, which is being relinquished without due consideration, through the unlawfully granted Impugned NOC. The Petitioner further submits that forfeiting the opportunity to exercise the right of pre-emption at this stage could severely compromise the University's future ability to acquire additional land when expanding its infrastructure. This, in turn, could result in a significant loss to the public exchequer and lead to unjust enrichment for certain private parties. The Petitioner asserts that the actions of the University, in this case, undermine public interest and are inconsistent with the principles of transparency and fairness expected from a public institution.

3. In such circumstances, questioning this surrender of the rights over the subject land, the Petitioner has approached the Court seeking the following prayers (as per the amended writ petition):

“A. Call the entire official records from Respondent No.1 University

¹ “Impugned NOC”



pertaining to the issuance of no-objection certificate to Smt. Zakia Zaheer, w/o Shri Syed Kazim Zaheer in order to dispose of prime land over which the Respondent No. 1 University has rights; and
B. Issue an appropriate writ, order or direction in the nature of mandamus and/or prohibition directing and commanding the registrar of Respondent No.1 University to not issue a no-objection certificate to Zakia Zaheer, w/o Shri Syed Kazim Zaheer for sale of land over which the Respondent No. 1 University has rights; and
C. Issue an appropriate writ, order or direction in the nature of certiorari quashing and setting aside the minutes of meeting of the Executive Council dated 4.08.2023 qua item IO (Annexure P-3); and
D. Issue an appropriate writ, order or direction in the nature of mandamus directing investigation into the surrender of the rights of the Respondent No. 1 University over the subject land through the CBI.
E. Issue an appropriate Writ, Order, Direction and/or declaration in the nature of certiorari to quash and set aside the impugned purported No Objection Certificate (NOC)" dated 21.08.2023 claimed to have been issued by the Estate Officer of the Respondent University and allegedly dispatched from the Office of the Vice Chancellor on 22.08.2023 vide FTS No. 767402
F. Pass such other or further order(s) and/or directions as this Hon'ble Court may deem fit and proper in the equitable facts and circumstances of the case."

4. During the pendency of the proceedings, on 29th May, 2024, the following order was passed:

"1. This Court on 09.01.2024 passed the following Order:

"1. Arguments have been concluded.

2. List on 24.01.2024 only to clarify as to whether the Minutes of the Meeting of the Executive Committee dated 04.08.2023 have been confirmed in a subsequent meeting of the Executive Committee or not. Liberty is granted to the University to place on record the relevant documents."

2. It is stated by the learned Counsel for Respondent No.1/JMI that the Competent Authority, after perusing the records and the affidavit of the former Registrar of the university, has decided that it would be appropriate that the entire matter relating to issuance of NOC and the averments be dealt by the forthcoming Executive Committee meeting which is proposed to be held on 03.06.2024.



3. List on 02.07.2024.”

5. Mr. Pritish Sabharwal, Standing Counsel for Jamia Millia Islamia, states that in terms of the aforementioned directions, the matter was considered by the Executive Council/*Majlis-i-Muntazimah* on 31st July, 2024. A copy of the minutes of meeting held on the said date have been filed by the University along with the additional affidavit. As per the said minutes, the Executive Council deliberated on the issue and observed as follows:

“3.1 The Estate Officer did not send the copy of said letter to any of the Sections as mentioned and also, there was no permission and authorization to the Estate Officer to issue such communication under the letter head of office of the Estate Officer. The EC has taken serious note of the contents of the letter, where the Estate Officer, has conveyed a decision on behalf of the EC, whereas, on perusal of the said Resolution of the EC dated 04.08.2023, no such decision or resolution, in respect of any request having been acceded to by the EC in clear and ambiguous terms. The Secretary is unable to show any file/document on record, where or how such authorisation was given to the Estate Officer to issue the said letter dated 21.08.2023.

3.2 The Hon'ble members of the EC posed a query to the AR (Council), who was present in the meeting to inform that whether any such file has been routed through the Council Section for giving any approval for grant of NOC and also communicating any such decision of the EC to Ms. Zakia Zaheer. The reply was in negative.

3.3 The Secretary informed the House that neither of the sections nor even his office is in possession or in receipt of such purported letter dated 21.08.2023.

3.4 It was also discussed and deliberated that the Estate Officer was not within his powers even by way of any authority or by the statute or even under delegation of power of the Vice-Chancellor to issue such communication on behalf of the Executive Council to Ms. Zakia Zaheer. Therefore, at the first instance, the House hereby unanimously sets aside the said letter dated 21.08.2023. The House has taken serious cognizance for such misuse of powers by circumventing procedure with malaice and lapses as well in subordination. The EC, in view of the facts and circumstances, has unanimously resolved that a High Level Inquiry Committee be constituted in the matter as to under what circumstances this letter was issued by the Estate Officer without process/approval or authorization.

3.5 Therefore, the matter has been carefully considered and the



House has also resolved to appoint a 03 (three) members High Powered Committee preferable headed by a retired Judge of Hon'ble High Court. The House, unanimously, resolves to authorize the Vice-Chancellor to constitute a Committee for the said purpose. The records qua the land in question are also directed to be seized by the Registrar, forthwith, including all documents inter-alia relating to the said land and the Minutes of EC dated 04.08.2023 immediately. The House hereby resolved that the High Level Committee will submit its report in a sealed cover within a period of 06(six weeks from the date of notification of the Inquiry Committee.

3.6 It has also been resolved by every member present in the House that considering the seriousness of the facts/matter, it is appropriate and expedient, in the best interest of the University to suspend Prof. Eqbal Hussain, Faculty of Law and Estate Officer, forthwith untill the Inquiry is completed to ensure that there is no tampering of record or that any such record is not created to circumvent the sanctity of the Inquiry Committee which is being constituted for the said purpose. The Vice-Chancellor is authorized to take all necessary steps in this connection, in accordance with rules/regulations and the action taken shall be reported in the next meeting of the Executive Council.

3.7 In view of the above and considering the nature of allegations, prima-facie, found against the present Estate Officer, the EC deems it appropriate to resolve to request the Ministry of Education through the Vice-Chancellor to appoint a new Estate Officer, so that the office of the Estate Officer is not affected."

6. It is evident from the minutes of the Executive Council meeting held on 31st July, 2024, that the Impugned NOC dated 21st August, 2023, has been set aside, a fact duly confirmed by Mr. Sabharwal. Furthermore, Mr. Sabharwal informs the Court that the minutes also reflect that Respondents No. 4 to 6 did not participate in the meeting despite being specifically requested to do so.

7. In view of the foregoing developments, the Court is of the considered opinion that the issue concerning the Impugned NOC has been adequately addressed by the actions taken by the Executive Council. As a result, the reliefs sought by the Petitioner under Prayers A, B, C, and E stand resolved,



rendering these prayers infructuous.

8. At this juncture, Dr. Amit George, counsel for the Petitioner, highlights the Prayer D, wherein the Petitioner has sought a writ of mandamus directing an investigation by an independent agency such as the CBI into the alleged surrender of rights by Jamia Millia Islamia University over the subject land. Dr. George draws attention to the counter affidavit filed by the University, wherein it defended the issuance of the Impugned NOC as valid in law. He argues that this position, taken under oath by the University, directly contradicts the subsequent decision of the Executive Council, which has since annulled the NOC and taken serious note of procedural lapses. This contradiction, Dr. George submits, points to significant lapses and inconsistencies on the part of the University that merit an independent investigation to uncover the manner in which the NOC was issued and the rights of the University were seemingly surrendered without proper authority or due process.

9. On this issue, the Court acknowledges the apparent inconsistency between the University's earlier stand, as articulated in the counter affidavit, and the recent resolutions of the Executive Council. The Court recognizes that this discrepancy could potentially indicate deeper administrative or procedural irregularities within the University's decision-making process. However, the Court also notes that the Executive Council has already acted to address these concerns by resolving to constitute a three-member High-Powered Committee, headed by a retired Judge of this Court, to investigate the issuance of the NOC and the related decisions. The scope of such inquiry, as can be gathered from the minutes, is broad enough and includes examining all aspects surrounding the issuance of the NOC, the alleged



surrender of rights, and any possible misconduct or lapses by the University officials. Additionally, the Executive Council has deemed it necessary to suspend Prof. Eqbal Hussain, the Faculty of Law and Estate Officer, to prevent any interference with the inquiry, and has also requested the Ministry of Education to appoint a new Estate Officer, thereby ensuring the integrity of the investigation.

10. In light of the above, in opinion of the Court, the measures undertaken by the Executive Council, including the appointment of a High-Powered Committee and the suspension of the implicated official, are sufficient to address the Petitioner's concerns at this stage. The Court expects that the inquiry will be conducted with due diligence and promptitude, and that the University will act on the findings of the Committee to their logical conclusion, ensuring that any irregularities are rectified and appropriate action is taken against those responsible. Further, Mr. Sabharwal has assured the Court that the University will take all necessary steps to protect its interests in accordance with the law, keeping the best interest of the institution in mind. In light of these developments, the Court finds no basis for issuing further directions with respect to Prayer D, as the mechanisms already in place appear to be adequate to achieve a just resolution of the issues raised.

11. At this time, it must be noted that Mr. Mobashshir Sarwar, counsel representing Respondents No. 4 to 6, who are the members of the Executive Council nominated by the President of India, states that he would like to file the reply to the additional affidavit filed by Jamia Millia Islamia University. He further submits that he is led by a Senior Counsel who is unavailable today, and therefore, the hearing should be adjourned.



12. The Court has considered both requests made by Mr. Sarwar but finds no merits in the same. The additional affidavit communicates the stand of the University, which the Court has considered without prejudice to the rights and contentions of the parties. Therefore, in the opinion of the Court, no reply is required to the same.

13. In view of the foregoing, no further directions are required to be passed. Since the University has decided to withdraw the Impugned NOC and take action against the Estate Officer/ Respondent No. 7, it must be clarified that the Court has not expressed any opinion on the merits of the allegations made by the Petitioner, the decisions taken by the Executive Council, or the necessity of obtaining an NOC from the University concerning the rights of Respondent No. 8. The observations and directions issued above are strictly without prejudice to the rights and contentions of any of the parties involved, and it remains open for the parties to pursue any further remedies available to them under the law, should they choose to do so.

14. Accordingly, the present writ petition is disposed of in the above terms, along with pending applications.

SANJEEV NARULA, J

SEPTEMBER 2, 2024/ab