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

+ **W.P.(C) 13121/2023**

SMT OMWATI

.....Petitioner

Through: Mr. Sandeep Mishra and Mr.Arjun
Kasana, Advs.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS.

.....Respondents

Through: Mr. Kaushik Kaushal, SC for MCD.
Mr. Mohit Bhardwaj, Adv for
R-2 & 4.
Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Saksham, Adv for UOI.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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17.09.2024

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

- " a) Issue a Writ in the nature of mandamus and direct the Respondent No. 1 to 4 demolish the unauthorized construction raised by Respondent No. 5 upon the House No. A195-199, Chattarpur Enclave Phase-II, New Delhi-110074;*
- b) Direct to the respondent No. 1 to 4 to seal the bore well for extraction of Ground Water Without permission and; 15*
- c) Direct to the respondents 1 to 4 to take appropriate legal action and impose penalties on Respondent No. 5 and;*
- d) Pass the directions to the respondents No. 1 to 4 to take legal action against the Respondent No. 5 for unauthorised constriction and ill legal use of ground water and;"*



2. The latest Status Report filed by respondent-MCD in paragraph no.5 states as under:-

"5. That as can be observed from the aforesaid detailed demolition order, the Competent Authority i.e. the AE (Bldg)-II, on considering the documents put forth by the notice held that the construction as booked is without having any legal sanctity and is actionable but in terms of the provisions made under the Moratorium Gazette Notification viz. Delhi Laws (Special Provisions) Act (as extended from time to time), the entire property is eligible for extending interim relief / protection till 31st December 2026 or on the day when the Govt. Suppose to comes out with uniform regulations (whichever is earlier), as the construction is dating back to 01/06/2014 and till such time directed to keep the demolition order in abeyance."

3. It is thus seen that as per respondent-MCD, the property in question stands protected by operation of law.
4. With respect to the unauthorised borewell/tubewell, the respondent-DJB, vide its Status Report/Communication dated 06.01.2024, has passed certain directions to the SDM-Mehrauli for taking necessary action to seal the illegal tubewell. The aforesaid communication reads as under:-

" Sir/Madam, .

Above mentioned High Court case has been filed by Smt. Omwati R/o 1061/ B/30 ward no 7 Mehrauli, New Delhi- 110030. The case was listed on 06.10.2023 and Hon'ble High court has passed an order in which DJB and MCD are directed to place a status report before this court within two weeks from today.

On dated 05.01.2024 undersigned has visited the site along with Sh. Vijay Kumar JE (Civil) and filed staff and found that there is one illegal tubewell found installed at House no. A-195 to 199 Chhattarpur Enclave Phase- II New Delhi- 110074. Hence you are therefore requested to take action on sealing of illegal tubewell as mentioned above.

Thanking You."

5. The Court, therefore, directs the concerned SDM to act strictly as per the communication dated 06.01.2024 within a period of 30 days from the



receipt of the copy of the order passed today.

6. Learned counsel appearing for the petitioner, however, submits that the Status Report filed by respondent-MCD, which extended the protection of the Moratorium Gazette Notification viz. the National Capital Territory of Delhi Laws (Special Provisions) Act, 2007, is illegal and improper.

7. If such is the nature of the objections raised by the petitioner against the Status Report, the petitioner shall be at liberty to approach the Special Task Force [STF], which has been constituted by the Delhi Development Authority *vide* notification dated 08.03.2019. He is granted further liberty to raise the objections herein to substantiate and seek redressal of his grievance.

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, it has been 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, the petitioner is granted liberty to approach the STF by way of proper representation, along with the copy of this order.

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 STF.

11. Accordingly, the instant writ petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J
SEPTEMBER 17, 2024/MJ