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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10255/2024**
HEMANT KUMARPetitioner
Through: Mr. Yogesh Sharma, Adv.

versus
MUNICIPAL CORPORATION OF
DELHIRespondent
Through: Mr. Nikhil Palli, ASC for MCD.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER
% **04.09.2024**

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

“Direct the Respondent to consider and decide the representation of petitioner dated 14.06.2024 by way of a speaking order to take action against the illegal and unauthorized construction being raised at Property bearing No. 4/20, WEA, Saraswati Marg, Karol Bagh, New Delhi-110005 followed by its demolition and sealing as per law.”

2. Despite the aforesaid prayer, the petitioner has confined the relief sought only to the extent of directing the respondent-Corporation to decide the representation. This Court, *vide* order dated 26.07.2024, had earlier found it appropriate to direct the respondent-Corporation to file a proper status report.

3. In pursuance of the aforesaid order, the respondent-Corporation has placed on record the status report and has taken the following position:-

“3. That as per record, the Building Plan with respect to Plot No. 20, situated at 4/20, WEA, Karol Bagh, New Delhi-11 0005 has /~/ been obtained by Mr. Chetan Bhandari and Smt. Saraswati Bhandari through the registered Architect/Engineer/Supervisor vide file



no.10113050 dated 05.04.2023 over a plot area of 221.39 sqm with the attributes basement, stilt floor, ground floor, first floor, second floor and third floor having permissible ground coverage and FAR @75% and 300% respectively.

4. That the property has been inspected by the concerned JE(D)/KBZ on 30.07.2024 and it had been noticed that after obtaining Building Plan vide file no. 10113050 dated 05.04.2023~ the owner/builder is carrying out the construction in the property. In case, any deviation from SBP is noticed in the property in future, appropriate action as per the provisions of the DMC Act, 1957 shall be liable to be taken. The photographs of the property taken during inspection are annexed herewith as Aneuxure-A for kind perusal of the Hon 'ble Court."

4. Having perused the stand taken by the respondent-Corporation in the status report, it is observed that the building plan with respect to plot no. 20, situated at 4/WEA, Karol Bagh, New Delhi, has been obtained. Upon inspection of the property, it has been noted that the plan was duly sanctioned, and the builder/owner is carrying out the construction in accordance with the sanctioned plan.

5. Learned counsel for the petitioner further agitates that his prayer was solely to decide the representation and according to him, since no speaking order has been passed on his representation, therefore, the aforesaid status report is of no assistance.

6. The Court is of the considered opinion that issuance of directions to decide on the representations, without completely realising the consequences of such directions, or without having a complete understanding of the controversy involved, is not appropriate while exercising writ jurisdiction.

7. This Court *vide* order dated 01.07.2024 in W.P. (C) 8833/ 2024 titled as ***Ajay Bansal v. Municipal Corporation of Delhi &Ors***, has dealt with an almost similar controversy, where, the petitioner had confined his relief



solely to consider his representation made to the municipal authorities against an alleged illegal construction. In the said case, it was held as under:-

“7. The petitioner, at best, can seek appropriate remedy in accordance with law to get his grievance redressed. Without analysing the repercussions which may flow from directions being issued in contentious issues, for deciding the representation, normally courts should stay its hand in passing such direction. Afterall, a striking aspect pertaining to Article 226 of the Constitution which has evolved through judicial interpretation over the passage of time suggests that the writ jurisdiction carries with itself certain self-imposed restrictions, which are inherent in nature of the power and are well-defined. These restrictions, which predominantly include exhaustion of alternate remedy, are meant to ensure that the extraordinary and discretionary jurisdiction conferred upon the High Courts under Article 226 is exercised sparingly in exceptional circumstances. The said exercise of power must reflect a commitment towards maintaining the integrity of the rule of law and should not be aimed at broadening the horizon of writ jurisdiction to adjudicate private disputes which are not in larger public interest and lack an element of public law.

8. In view of the aforesaid, it is determined that a representation can be directed to be considered/decided only once the petitioner is able to make out any substantive grievance and cause requiring decision based upon the petitioner's rights and their corresponding violation.

9. Bearing in mind the status report filed by the respondent-Corporation, the Court does not find it appropriate to issue any further direction(s).

10. However, the petitioner shall be at liberty to approach the Special Task Force, in case he is of the opinion that the respondent-Corporation has failed to carry out its statutory duties in accordance with the applicable rules and regulations.

11. With the aforesaid liberty, the petition stands disposed of alongwith pending applications.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 4, 2024/KG