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

+ **W.P.(C) 12033/2024 & CM APPL. 50149/2024**

PRAVIN SINGHAL

.....Petitioner

Through: Mr. Amit Seth, Mr. Dilip Agarwal
and Mr. D. N. Kumar, Advs.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS

.....Respondents

Through: Mr. Puneet Yadav, ASC for MCD.
Ms. Arti Bansal, ASC for DDA.
SI Shivom, PS: Madhu Vihar, Delhi.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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30.08.2024

CM APPL. 50150/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 12033/2024 & CM APPL. 50149/2024

1. The petitioner in the instant writ petition seeks for directions to respondent nos.1 and 2 to seal and demolish the alleged illegal and unauthorised construction raised by respondent nos.4 and 5 in flat No. A1/504, Milan Vihar, Plot No.72, I.P. Extension, Patparganj, Delhi 110092.
2. Before adjudicating the controversy on merits, it is pertinent to refer to the specialised mechanism evolved upon the directions of the Supreme Court in the form of a Special Task Force (STF) to effectively prevent illegal construction as also to ensure compliance with extant rules and



regulations governing construction of buildings. While dealing with the issue of rampant unauthorised construction and encroachment in various areas, the Supreme Court *vide* order dated 24.04.2018 in W.P. (C) 4677/1985 titled as ***M.C. Mehta v. Union of India*** had recorded following significant observations with respect to the constitution of STF:-

“In view of this situation, we direct that there should not be any further construction in unauthorized colonies including on public land beyond the existing building and other bye-laws. Consequently, all building and construction activity in the unauthorized colonies including on public land is stopped with immediate effect beyond the existing building and other bye- laws applicable to authorized colonies. The concerned authorities will ensure compliance.

It has been submitted by learned Additional Solicitor General (Mr. Nadkarni) that a Task Force is contemplated that will ensure that the orders of this Court and the applicable byelaws are implemented and encroachments, etc. as well as unauthorized constructions are removed.

The Task Force as suggested by learned Additional Solicitor General (Mr. Nadkarni) may be constituted with immediate effect.

As a first step, the Task Force should remove encroachments on public roads, public streets and pedestrian streets, as mentioned in the immediate action submitted by Mr. Nadkarni in a Revised Note dated 18th April, 2018. The needful should be done within a period of two weeks from today.

We make it clear that the Monitoring Committee may suggest to the Task Force the areas where immediate action is required to be taken.

It is stated by learned Additional Solicitor General (Mr. Maninder Singh) that about 27.02 acres of public land has been taken over by the Delhi Development Authority since 1st April, 2018. The details of this have not been mentioned. An affidavit should be filed giving full details of the 27.02 acres of public land that has been taken over by the Delhi Development Authority from unauthorized encroachments.”

3. The aforesaid STF was suggested to be brought in place in order to curb the menace of unauthorised construction from becoming an unruly horse. In the aforesaid order, it was explicitly directed that all the construction activities which were being carried out *dehors* the applicable



building laws and bye laws therein, are stopped with immediate effect. Pursuant to the said directions, as per the office memorandum dated 25.04.2018, issued by the Ministry of Housing and Urban Affairs, STF was constituted to fulfil the following objectives:-

- Identify encroachments on Government land in different localities of NCT Delhi and to reclaim the encroached Government land;
- Suggest course of action to the Government of India with respect to the unauthorised colonies of NCT, Delhi and regular follow-up till its resolution;
- Over see the effective and proper enforcement of the applicable laws by the local bodies particularly with respect to use violation and unauthorised construction;
- Monitor action taken by the local bodies with respect to the use violations and unauthorised construction;
- Identify the areas of congestions of traffic in different parts of NCT, Delhi and suggest measures to remedy the same to the local bodies and other agencies;
- See that the traffic management strategies are devised and implemented with or without consultation with traffic experts, planners and the Unified Traffic & Transportation Infrastructure (Plg. & Engg.) Centre (UTTIPEC);
- Oversee compliance of fire safety measures and disaster management requirements particularly, in schools, colleges, hospitals etc.
- The STF may modify/ add any other object which is in line with improvement of habitat in Delhi.

4. Thereafter, another office memorandum dated 23.05.2018 was issued by the Ministry of Housing and Urban Affairs, Government of India (GoI) pertaining to the action plan for monitoring of all construction activities in Delhi and fixing of responsibility in case of violation of Master Plan for Delhi, 2021 (MPD-2021), Unified Building Bye Laws etc. The said action plan was proposed to accomplish two-fold objectives i.e., *firstly* to ensure that no further illegality/irregularity in construction happens in future and *secondly*, to take prompt action in cases of unauthorised construction raised



in the past.

5. *Vide* subsequent order dated 18.07.2018 in *M.C. Mehta (supra)*, the Supreme Court took note of the submissions made on behalf of the GoI and also noted the proposed steps to be taken by the GoI for redressal of complaints with respect to unauthorised construction and encroachment. It is thus observed that in terms of the directions passed by the Supreme Court, the Delhi Development Authority, while exercising powers conferred by sub-Section (1)(aa) of Section 57 of the Delhi Development Act, 1957 and with the previous approval by the GoI, issued Notification dated 08.03.2019 for constituting STF, in continuation with the aforementioned office memorandum. The roles and functions of STF constituted by the Delhi Development Authority (DDA) are delineated as under:-

- Direct the local bodies to ensure that all the layout plans, local area plans are being taken up by the concerned local bodies with respect to infrastructure provisions, parking, traffic management and also all the statutory approvals are obtained in a timebound manner.
- Direct the local bodies to ensure that the layout plans are prepared in coordination with all the service providing agencies.
- Direct the service providing agencies to ensure that all the relevant data required for assessment and augmentation of various facilities are provided in a timebound manner.
- Direct the local bodies to ensure monitoring of any unauthorized construction, misuse of land, encroachment on public land and any other irregularities observed which is not in conformity with the provisions of the Master Plan or any other prevailing law.
- Ensure that Urban Local Bodies (ULBs) shall take up formation of a unified and integrated web portal wherein all the complaints/ issues within an area may be recorded which shall be reviewed by the STF in its meetings. In case, any problem is faced by local bodies or there are any ambiguity or differential norms in the Master Plan, the same shall be brought to the knowledge of the STF and if required, after discussions and deliberations, the necessary amendments may be



suggested to be carried out in the Master Plan taking into consideration the ground realities.

- Direct the local bodies and the Traffic Police for preparation of Management Plan (Circulation, Parking) in consultation with the local bodies and the RWAs/Traders Associations.
- Direct the local bodies and the traffic police to remove the road blocks of any nature to ease the flow of traffic.
- Direct the local bodies and the Delhi Police to clear encroachments on footpaths, pavements, underpasses and other public areas.
- Direct the local bodies and the Delhi Police to remove encroachment from Green areas of Delhi and other public places.
- Propose action against the erring officials in case any local body fails to adhere/act on the irresponsibilities.
- Direct the local bodies to submit the details of the Actual Site Position to the Committee on 25th of every month out lining violations if any and showcause notice issued alongwith the course of actions to be taken as per the law.
- Direct the local bodies to launch public awareness campaigns about following the Master Plan norms and municipal laws particularly with respect to uses of properties and construction within the sanctioned limit.
- Suggest measures for better co-ordination amongst the local bodies, Delhi Police, DDA and the GNCTD to ensure that there is no crisis in enforcement.
- Direct the local bodies to provide its field staff with GPS enabled cameras to take photographs and videos of violations and to take them as evidence for action against such violation.
- Direct the local bodies to obtain GPS co-ordinates of different localities showing the extent of constructed area so that any fresh construction which is taking place may be checked to ensure whether the same is in accordance with law.

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.

8. A perusal of the latest minutes of the meeting dated 09.08.2024, which was published on 27.08.2024 on the web portal dedicated to STF on the website of DDA, indicates that STF is effectively dealing with the complaints and also endeavouring to serve the purpose for which it was established. The said minutes of the meeting reflect that a total of 1,84,018 complaints were received by STF till 31.07.2024 and out of which, action taken reports have been received on 1,75,571 complaints. It is also stated that as on 31.07.2024, the total pending complaints are only 8447. Additionally, till 31.07.2024, 2933 complaints were received against the alleged erring officials and only 84 complaints against the said officials appear to be pending for action to be taken.

9. An overview of the aforesaid discussion would, thus, signify that



STF, while employing myriad range of strategies, is pivotal in enforcing planning norms and preventing unbridled illegal construction. Since one of the objectives of STF also mentions that it may modify/ add any other object which is in line with improvement of habitat in Delhi, STF must not be hesitant in directing the responsible bodies/officers to make an interim arrangement where situation so requires or to pass an interim order of stay over illegal construction halting the further progress on the site.

10. Therefore, bearing in mind the effective redressal of specified disputes by STF, the Court should not adjudicate all kinds of disputes relating to illegal construction while exercising discretionary remedy under Article 226 of the Constitution of India. At the same time, the mechanism of STF should also not be construed in a sense that the same puts a complete bar against entertainability of writ petitions in such cases. Essentially, while dealing with such issues, the Court must strike a balance to entertain and decide writ petitions in appropriate cases which would warrant necessary interference, depending upon facts and circumstances therein.

11. Having delved into the role, objectives and functioning of STF, it is germane to advert to the decisions rendered by this Court, wherein, looking at the nature of the *lis*, the Court had referred the same to STF to take the matter to its logical end.

12. In W.P.(C) 1807/2018 titled as ***Devender v. Govt. of NCT of Delhi and Ors.***, the Division Bench of this Court disposed of a batch of writ petitions *vide* order dated 20.09.2018, directing the parties aggrieved by the illegal construction to approach STF. The relevant paragraph of the said decision reads as under:-

“7. That apart, by another Office Memorandum No. O-33011/1/2006-DDI issued by the DDA on May 23, 2018, an action plan for



monitoring all ongoing construction activities in Delhi, fixing of responsibilities in case of violation of Master Plan, unified Building Byelaws and issues with regard to illegal constructions have been dealt with and even a plan for receipt of complaint with regard to illegal and unauthorized constructions already made and steps to be taken for their removal have been indicated. Once under the orders passed by the Hon'ble Supreme Court, a Special Task Force has been created and an action plan has also been drawn for the purpose of preventing any further illegal construction and also for removal of constructions unauthorizedly and illegally undertaken, now the purpose of all these writ petitions filed before us in public interest or otherwise stands fulfilled to a certain extent and further action are to be taken in the matter based on the duties entrusted to the Special Task Force and the action plan drawn under the supervision of the Hon'ble Supreme Court, that being so, it is not appropriate now for us to exercise our jurisdiction in all these matters. Suffice it would be to say that all these petitioners are granted liberty to raise appropriate pleas before the authorities as are notified in the Office Memoranda dated April 25, 2018 and May 23, 2018 and the authorities are directed to proceed in the matter as directed by the Hon'ble Supreme Court and indicated in the above-mentioned Office Memoranda with regard to grievance of each of the petitioners."

13. In another case being W.P. (C) No. 9938/2018 titled as **Suresh Chand Goel vs. East Delhi Municipal Corporation**, the Division Bench of this Court has followed its earlier order dated 20.09.2018 in **Devender (supra)**, and disposed of the writ petition, granting liberty to the petitioner to file a complaint before STF.

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.***

16. The Court also lends credence to the orders passed by the Coordinate Bench of this Court in W.P. (C) 1367/2019 titled as ***Devinder Kumar v. North Delhi Municipal Corporation & Ors.*** and in W.P. (C) 9624/2023 titled as ***Arjun Singh v. Municipal Corporation of Delhi and Ors.***, whereby, the petitioners therein who were aggrieved by the illegal construction in their vicinity, were relegated to STF to agitate their grievances.

17. In view of the above, the Court directs the petitioner to file an appropriate representation before STF and in case, the petitioner does so, let the necessary steps be taken in accordance with law.



18. With the aforesaid observations, at this stage, the instant petition stands disposed of.

19. All rights and contentions of the parties are left open.

PURUSHAINdra KUMAR KAURAV, J

AUGUST 30, 2024/p