



2024:DHC:8348-DB



\$~183

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

+ **LPA 1064/2024, CM APPL. Nos. 62726-29/2024**

COUNCIL OF ARCHITECTURE

..... Appellant

Through: Mr. Naveen R. Nath, Sr. Advocate
with Ms. Disha Gupta, Ms. Gayatri
Virmani, Ms. Kavita Naiwal,
Advocates.

versus

AR BELA AGRAWAL & ORS.

..... Respondent

Through: Mr. Rajnish Sinha, Ms. Shelly
Khanna, Ms. Akankrita Sinha,
Advocates for R2 & R3.

%

Date of Decision: 24th October, 2024

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, CJ (ORAL)

1. Present appeal has been preferred under Clause X of the Letters Patent Act, 1866 assailing the judgement dated 5th September, 2024 passed by the learned Single Judge, whereby the underlying writ petition being W.P.(C) 16402/2022 filed by the respondent no.1, was allowed setting aside the Report of the Disciplinary Committee along with the Minutes of the Meeting of the Appellant/Council of Architecture, suspending the respondent no.1 from practicing as an Architect for a period of twelve (12) months.

2. The facts germane to the present appeal, shorn of unnecessary details



2024:DHC:8348-DB



are as under:-

- (i) The respondent nos. 2 & 3 were appointed as Architects by the Madhya Pradesh Project Works Department (for short “MPPWD”) for designing the proposed Madhya Pradesh Medical Science University at Jabalpur and an Agreement dated 8th October, 2014 was executed between them in this regard.
- (ii) Thereafter, in 2017, the Madhya Pradesh Government through the MPPWD floated an open tender for empanelling Detailed Project Report Consultants (for short “DPRC”) for any or all projects overseen by it at Jabalpur. The respondent no.1 emerged as the successful bidder and was appointed as the DPRC with the Project Implementation Unit, MPPWD for a period of one year *vide* Letter of Acceptance dated 1st November, 2017. It is stated that the respondent no.1 was responsible for preparing Detailed Project Reports (for short “DPR”) for projects assigned to her on the basis of the designs provided by MPPWD.
- (iii) During the execution of the contract, respondent no.2/Arcop Associates informed respondent no.1 about their existing Architectural Service Agreement dated 9th October, 2014 with MPPWD for the Medical Science University project.
- (iv) Subsequently, respondent no.3/Director of respondent no.2 company, filed a complaint with the appellant/Council of Architecture (for short “COA”) dated 21st June, 2019, alleging that the respondent no.1 had plagiarized their architectural designs for the project and presented them as her own work. It was also alleged that respondent no.1 had accepted the assignment despite having knowledge of their



existing contract with MPPWD. Though the complaint was silent in its reference to the relevant regulation, ostensibly, respondent no.1 was alleged to have violated Regulation 2(1)(xv) of the Architects (Professional Conduct) Regulations, 1989 (for short “*Regulations, 1989*”), which prohibits architects from accepting work that conflicts with existing contracts.

(v) Respondent no. 1 filed a detailed response on 9th July, 2019, to the complaint dated 21st June, 2019 received by her *vide* the covering letter of the appellant dated 25th June, 2019. In her response, respondent no.1 clarified that she was not the Architect for the project, but merely a Consultant to prepare the DPR by MPPWD, which she completed based on the designs provided and submitted it to the relevant authorities as per the tender awarded to her. She further clarified her lack of awareness regarding any existing agreement between MPPWD and respondent no. 2, related to the project. It is stated that on 31st August, 2021, the appellant/COA referred the said complaint to the Disciplinary Committee (for short “*DC*”).

(vi) The DC conducted a hearing in the matter and issued a Report dated 2nd February, 2022, finding respondent no.1 guilty of professional misconduct for violating Regulation 2(1)(x) of the Regulations, 1989.

(vii) Thereafter, the appellant/COA accepted the DC’s Report on 22nd July, 2022. *Vide* Minutes of Meeting dated 7th November, 2022, the appellant suspended respondent no.1 from practicing as an Architect for twelve (12) months and directed her to surrender her Certificate of Registration.



(viii) Aggrieved by this decision, respondent no.1 preferred the underlying writ petition being W.P.(C)16402/2022 challenging the Minutes of Meeting dated 7th November, 2022. Learned Single Judge allowed the underlying writ petition *vide* impugned order dated 5th September, 2024. Aggrieved by such decision, the present appeal has been filed by the appellant/COA.

3. Mr. Naveen R. Nath, learned senior counsel appears for the appellant and states that the underlying writ petition was premature and not maintainable. Respondent no.1 challenged the Minutes of the Meeting dated 7th November, 2022 which were actually circulated to the members for approval on 25th November, 2022. He states that the same would have to await a further period of thirty (30) days to elapse before it is deemed to be confirmed, as mandated by Regulation 17 of the Council of Architecture Regulations, 1982.

4. He states that the learned Single Judge has erroneously noted that the finding of guilt of violation of Regulation 2(1)(xv) of the Regulations, 1989 was unilaterally imposed on the respondent no.1. He urges that the primary grievance of the respondent nos.2 and 3 was premised on violation of Regulation 2(1)(xv) of the Regulations, 1989 which was considered by the appellant. Only after hearing both the parties thoroughly and carefully, considering the submissions, did the appellant record a finding of professional misconduct on the part of respondent no.1 in terms of Regulations 2(1)(x) and (xv) of the Regulations, 1989. Thus, according to him, the primary finding itself being premised on an incorrect fact, the impugned judgment ought to be set aside.

5. Learned senior counsel for the appellant also submits that there has



been no violation of the principles of natural justice, inasmuch as, respondent no.1 was given ample opportunity to file her reply, submit evidence and present her case. He states that it is an incorrect conclusion that there was no allegation of violation of Regulation 2(1)(xv) of the Regulations, 1989 in the original complaint. He also states that respondent no.1 was also put to notice on charges regarding violation of Regulations 2(1)(x) as well as 2(1)(xv) of the Regulations, 1989. According to him, in view thereof, there is no violation of the principles of natural justice as noted by the learned Single Judge.

6. Learned senior counsel for the appellant states that both the DC and the appellant have recorded justifiable findings concluding professional misconduct on the part of respondent no.1. In fact, he submits that respondent no.1 herself admits to have failed to inform MPPWD and also extended her apologies for her actions before the DC too. He urges that once respondent no.1 herself has admitted to her guilt and violation of the said Regulations, the learned Single Judge ought not to have interfered and substituted his own views for that of the regulatory body, particularly when the DC as also the appellant have conformed to the rules of administrative jurisprudence.

7. Learned senior counsel for appellant states that despite granting ample opportunity, respondent no.1 never produced those designs which were stated to have been plagiarized by her, which was the primordial allegation leveled against her by respondent nos.2 and 3. He states that it is not the case of respondent no.1 that she was not afforded an opportunity or that principles of natural justice were violated. In that background, he states that no fault could be found with either the DC or the appellant in recording



such findings holding respondent no.1 guilty of professional misconduct. He states that the present appeal be allowed.

8. This Court has heard Mr. Naveen R. Nath, learned senior counsel for the appellant at the stage of admission hearing itself but is unable to agree with the submissions so made.

9. On the query put by this Court, it was fairly conceded by the learned senior counsel for the appellant that the respondent nos.2 and 3 were in the know of Notice Inviting Tender (for short “NIT”) issued by the MPPWD for the engagement of DPRC in the year 2017, which was open for all the architects to participate. He could not explain as to why the said respondent nos.2 and 3 did not protest or object to the MPPWD at the stage at which the NIT was issued. This point was noted predicated on the submission that respondent nos.2 and 3 claim to be already executing the contract as an Architect in respect of the larger project in question. Thus, it appears to this Court that the appellant instead of donning the role of DC, arrogated to itself the role of arbiter between respondent nos.2 and 3 on one hand and respondent no.1 on the other.

10. It is also clear from plain reading of the complaint filed by the respondent nos.2 and 3 that the said respondents had a grouse against the MPPWD on account of non-payment of substantial fees. From the record, it is apparent that respondent nos.2 and 3 never objected to the MPPWD issuing a fresh tender in respect of hiring a DPRC. It is also apparent from the submission of learned senior counsel that respondent nos.2 and 3 had knowledge of such fresh tender being floated and its subject, yet never approached the MPPWD in protest, before issuance of the said tender. It can thus be safely inferred that it was respondent nos.2 and 3 who had prior



knowledge of the respondent no.1 being awarded the contract as DPRC, yet did no more than issue a notice to respondent no.1 and filed a subsequent complaint to the appellant in this regard. It was only on 22nd January, 2021 that respondent nos. 2 and 3 had sent a communication to MPPWD in this regard. These basic and underlying facts, which are apparent to us, were conveniently overlooked by the appellant. This indicates the partisan consideration of the dispute by the appellant.

11. Apart from the analysis and observations in the impugned judgment, this Court also finds that though the DC had concluded misconduct only under Regulation 2(1)(x), yet the appellant concluded guilt of the respondent no.1 under Regulation 2(1)(x) and (xv) of the Regulations, 1989. Though Mr. Nath, learned senior counsel for the appellant predicated this inclusion of violation of Regulation 2(1)(xv) of the Regulations, 1989 on the ground that this was the primary complaint of respondent nos.2 and 3, yet he admitted that no notice by the appellant was issued to respondent no.1 *qua* the charge under Regulation 2(1)(xv) of the Regulations, 1989. It is trite that if the Disciplinary authority or the body differs or seeks to add a charge dropped by the inquiring authority, it is mandatory to issue a notice to show cause as to why such charge be not leveled against the individual. On this short ground itself, the Minutes of the Meeting dated 7th November, 2022 of the appellant are liable to be quashed.

12. It beats reason as to why respondent nos.2 and 3 would file a complaint against respondent no.1 when the primary body, i.e. MPPWD, is a client common to both and it was respondent nos. 2 and 3 who were the architects awarded the contract in such capacity in the year 2014. It is not denied that the NIT in respect of DPRC was an open NIT for all the



architects to participate. Notwithstanding the admission by learned senior counsel regarding knowledge of tender of 2017 with the respondent nos. 2 and 3, it cannot be believed that respondent nos.2 and 3 who claimed to be executing a larger project did not know about the NIT called for by the MPPWD regarding DPRC. From the aforesaid, it appears to us that respondent no.1 was being targeted. Thus, on this aspect too, this Court finds that the appellant has been unfair to respondent no.1.

13. Lastly, it is also relevant to consider that the role of respondent nos.2 and 3 as architects for the entire project and that of respondent no.1 as DPRC is distinct. Ordinarily, the Architects design and plan spaces, while the Project Report Consultants usually provide guidance and support throughout the project's life cycle by conducting assessments, identifying objectives, devising strategies and offering recommendations. Once respondent no.1 had intimated that she was not appointed as Architect of the project but is only a DPR Consultant, things should have rested at that. The appellant, being a body of Architects, aka an expert body, ought to have given due credence and consideration to such fundamental and basic facet. This aspect has been pointedly discussed by the learned Single Judge in para 16 of the impugned judgement. The same is extracted hereunder:

“16. The communication dated 5th April, 2018, from the Office of the Divisional Project Engineer, Public Works Department (PIU), Jabalpur, which is placed on record by the Petitioner is crucial in clarifying the Petitioner's role and evidently the disengagement of Respondent No. 2's services. The letter explicitly states that the designs for the project were to be prepared in-house by the MPPWD, thereby indicating that the responsibility for architectural design had been taken over by the Chief Architect of MPPWD. This suggests that the contractual relationship between Respondent No. 2 and MPPWD may have been effectively terminated at that point. The Petitioner, appointed as a DPR consultant under a separate contractual arrangement, was operating under the direct instructions of the



MPPWD. Therefore, the grievance of Respondent No. 2 appears to stem from a loss of their engagement with MPPWD, rather than any professional misconduct by the Petitioner. The Council, in this context, has overstepped its jurisdiction by assuming that the Petitioner acted improperly in accepting payment from MPPWD. Pertinently, if Respondent No. 2 had any dispute over the termination of their services, it should have been directed towards MPPWD rather than unfairly targeting the Petitioner, who was merely fulfilling her obligations under a legitimate contract. Furthermore, if the Respondents No. 2 and 3 perceived that the Petitioner had indulged in copyright or design infringement, they should have approached the Court of competent jurisdiction or an appropriate forum for agitating these claims”

14. This Court is not delving deeper into the dispute, since the judgment of the learned Single Judge is detailed and has examined various issues elaborately. Suffice it to observe that this Court is in agreement with the conclusions drawn in the impugned judgement.

15. In view of the above, this Court finds no reason to interfere with the impugned judgement 5th September, 2024 passed by the learned Single Judge dated. The appeal, along with the pending applications, is dismissed.

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

OCTOBER 24, 2024/rl