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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 16572/2024**

**K.D POCKET RESIDENTS WELFARE
ASSOCIATION (REGD.)**

.....Petitioner

Through: Mr. Shashank Bajpai, Advocate.

versus

**MUNICIPAL CORPORATION
OF DELHI & ORS.**

.....Respondents

Through: Mr. Ashutosh Gupta, ASC for
MCD.

Mr. Mohit Gupta, Ms. Anisha
Gupta, Mr. Vishal Saxena, Mr.
Mohit J. and Mr. Hrithik,
Advocates for R-2 & 3.

**CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN**

ORDER
19.12.2024

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1. The petitioner- Resident's Welfare Association ["RWA"] has filed this writ petition for a direction upon respondent No. 1-Municipal Corporation of Delhi ["MCD"] to reinstall a gate [*Gate No. 4, near KD-77, adjacent to Kohat Enclave metro station, Pitampura*] which has been removed by MCD on 08.12.2023.

2. It appears that the aforesaid gate was installed by the residents of the colony, and permission was granted to the RWA by communication of MCD dated 10.10.2008. 15 years thereafter, a writ petition came to be filed by respondent Nos. 2 and 3 herein, who claim to be residents of the



colony seeking removal of the gate. By an order dated 08.05.2023, their writ petition [W.P.(C) 5907/2023] came to be disposed of with a direction that the petition be treated as a representation to MCD and be disposed of within a period of three weeks.

3. MCD failed to dispose of the case within the time granted, which led the said writ petitioners to institute proceedings in contempt [CONT. CAS. (C) 1789/2023]. The contempt petition was disposed of on 05.12.2023, with the following directions:

“4. Mr Gupta, learned ASC accepts notice on behalf of the respondent No.1 and states on instructions that the gate is illegal and without permission. He further states that the gate will be removed within three working days and in any case not later than ten days from today.

5. Taking the statement of Mr Gupta, learned ASC on record and binding the respondent No. 1 to the same, the contempt petition is disposed of.

6. In case the petitioners are aggrieved by any non action by the respondent, the petitioners are at liberty to revive the contempt petition.”

4. In the present writ petition, the petitioner has placed on record the permission letter dated 10.10.2008 in support of its submissions that the MCD's position as recorded in the order dated 05.12.2023 was incorrect.

5. MCD has filed a counter affidavit, in which it is accepted that the subject gate was regularised by order dated 10.10.2008. The counter affidavit states that the stand taken in the contempt petition was a result of a lack of awareness of the instructing officers with regard to the grant of permission, as a result of trifurcation and subsequent reunification of MCD.

6. Mr. Ashutosh Gupta, learned Additional Standing Counsel for MCD, states that MCD is willing to reinstall the gate immediately at its



own expense, having regard to the fact that it was removed on a misconception.

7. MCD is directed to do so within a period of two weeks after lifting of the Graded Response Action Plan– IV restrictions on construction.

8. The question then remains is of the implementation of the order dated 08.05.2023 passed in the writ petition filed by respondent Nos. 2 and 3.

9. As far as this aspect is concerned, MCD is directed to give a hearing to respondent Nos. 2 and 3, and to the petitioner herein, and to pass necessary orders within eight weeks from today consistent with the '*Policy/guidelines for installation of gates for security purpose in colonies*' dated 25.06.2007 ["Policy"]. Notice for the hearing may be given to the affected parties through learned counsel appearing on their behalf in this writ petition.

10. The gate, once installed, will be operated by the petitioner in accordance with the Policy.

11. The writ petition is disposed of with the aforesaid directions.

PRATEEK JALAN, J

DECEMBER 19, 2024/MR/AL/