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

+ W.P.(C) 2887/2022

RANJNA MALLIK AND ANR.

.....Petitioners

Through: Mr. I.C. Mishra, Advocate
(M:9810542505)

versus

DY COMMISSIONER MCD AND ORS.

.....Respondents

Through: Mr. Jitendra Kumar Tripathi, SC-
MCD (M:9990952670)
Mr. Moksh Arora, Ms. Mahima Bajaj,
Mr. Ankit Bhushan, Advocates for
BSES RPL (M: 9999061836)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

03.04.2025

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1. The present writ petition has been filed seeking quashing of the letter dated 20th May, 2019, issued by respondent no. 3, which declares that the petitioners have carried out unauthorized construction in the property. Further, there is prayer to seek directions to respondent nos. 1 to 3 to remove the house of the petitioners from the unauthorized construction record/list, and direct respondent no. 4 to grant electric connection to petitioner no. 2.
2. Learned counsel for the petitioners submits that the petitioners have been staying in the premises, situated at *B-153/2, 1st Floor, Jaitpur Extention, Part-II (Khadda Colony), New Delhi-110044*, since the year 1998.
3. He submits that a representation dated 13th July, 2021, was submitted



by the petitioners to the Executive Engineer (Building), Central Zone, requesting to remove the property of the petitioners from the list of unauthorized constructions.

4. He further draws the attention of this Court to the letter dated 07th September, 2021, which was written by the petitioners to the Information Officer, Central Zone, SDMC, Lajpat Nagar under the Right to Information Act, 2005 (“RTI Act”), seeking information regarding petitioners’ application dated 13th July, 2021.

5. The RTI reply dated 02nd November, 2021, was issued to the petitioners, as per which, a notice was sent in respect of the property in question under Section 343 and 344 of the Delhi Municipal Corporation Act, 1957 (“DMC Act”) on 02nd April, 2019, on account of illegal construction at first Floor.

6. Against the RTI reply dated 02nd November, 2021, an appeal was filed by the petitioner before the Appellate Authority under the RTI Act. The said appeal was disposed of and letter dated 20th December, 2021, was sent by Superintendent Engineer (Central)-II, i.e., the Appellate Authority, under the RTI Act, to the petitioners.

7. Learned counsel for the petitioner submits that despite directions by the Appellate Authority to provide the relevant documents to the petitioners, no such documents have been provided, till date.

8. He further submits that the property in question is an old construction and only repair work was carried out by the petitioner for the purpose of strengthening the structure of the building. He further submits that the colony, i.e., *Jaitpur Extention, New Delhi-110044*, was an unauthorized colony. However, by the notification of Government of India, in the year



2019, the colony in question, was regularized.

9. He submits that since demolition order has been passed without following the Principle of Natural Justice, and without issuing of notice to the petitioners, the said order is not lawful.

10. Per contra, learned counsel appearing for the Municipal Corporation of Delhi (“MCD”) has drawn the attention of this Court to the Status Report filed on its behalf, wherein, the Show Cause Notice dated 12th April, 2019 and other documents have been filed.

11. Responding to the aforesaid, learned counsel appearing for the petitioners submits that it is only along with Status Report, that the requisite documents have been served upon the petitioner, for the first time.

12. Accordingly, since it is the case of the petitioners that no Show Cause Notice for unauthorized construction has ever been served upon the petitioners, the matter is remanded back to the MCD.

13. A fresh Show Cause Notice shall be issued by the respondent-MCD to the petitioners. Opportunity of filing reply and personal hearing shall be granted to the petitioners.

14. After grant of personal hearing and considering the reply filed on behalf of the petitioners, a speaking order shall be passed by the MCD.

15. In case the petitioners are aggrieved by any orders passed by the MCD, the petitioners would be at liberty to seek remedies, as per law.

16. It is further directed that no coercive action shall be taken against the petitioners during the pendency of the proceedings before the Department. The protection in favour of the petitioners, shall continue for a period of further four weeks, after passing of the speaking order by the respondent-MCD.



17. In case the petitioners do not challenge the speaking order passed by the MCD within four weeks of passing of the said order, the respondent-MCD shall be at liberty to take action as per law, in case the finding is against the petitioners.

18. Accordingly, since the matter is being remanded back, the earlier proceedings initiated by the MCD against the petitioners, stands quashed.

19. With the aforesaid directions, the present writ petition, is accordingly, disposed of.

MINI PUSHKARNA, J

APRIL 3, 2025/au