



**LOKPAL OF INDIA**

**Plot No. 6, Institutional Area, Phase- II  
Vasant Kunj  
New Delhi - 110070**

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Complaint No. : 177/2023

Date : 21<sup>st</sup> March, 2024

**Coram** : **Justice Abhilasha Kumari**  
**Judicial Member**

**Smt. Archana Ramasundaram**  
**Member**

**Justice Sanjay Yadav**  
**Judicial Member**

**ORDER**

The complaint is against a Junior Engineer of Municipal Corporation of Delhi (MCD), Najafgarh Zone. This complaint was placed before the Full Bench on 27.09.2023. The complainant had alleged that the said public servant allegedly took bribe/favour from the owners/builders of illegally constructed properties in Mahipalpur Ward No.133 of MCD and did not take action on complaints received against these illegal constructions. The complainant had given the details of the complaints filed by him against the illegal construction of certain properties with the Commissioner/Deputy Commissioner of Najafgarh Zone, including the details of the irregularities committed in the said construction.

2. The complainant had added that based on his allegations against three MCD officers, two officers were transferred to different zones but the said public servant, against whom allegations have been levelled in the present complaint, continued to serve in Ward No.133. He assumed charge of Ward No.133 in August 2022 and remained there for almost one year. The complainant had lodged two separate complaints on 18.10.2022 and 14.12.2022 respectively, against the said public servant for protecting and promoting illegal construction activities in his jurisdiction, with various authorities, including the Deputy Commissioner of Najafgarh Zone, Special Officer of MCD, the Commissioner of MCD, Corruption Complaint Cell of MCD and the Lt. Governor of NCT of Delhi. But no action was taken on his complaints sent to various authorities.

3. It was also alleged that some illegally constructed buildings were near the airport, in violation of the aviation rules. The public servant concerned was also allegedly involved in removing the records of these illegal constructions from the MCD, Najafgarh Zone, thereby preventing access to the information sought through the RTI applications. The complainant also cited the name of a witness who could testify the irregularities and illegal activities in the said Ward. It had also been alleged that the movable and immovable assets of the said public servant had significantly increased, raising suspicion about his misconduct.

4. In the year 2023, the said public servant was transferred to another Ward within Najafgarh Zone and his successor took immediate action on the pending complaints. This resulted in the booking of several unauthorised and risky buildings under the DMC Act.

5. The complainant had also enclosed a copy of the notice served by him on 18.03.2023 through an Advocate under section 478 of the DMC Act, 1957, read with section 80 of the CPC, 1908 to the said public servant, Commissioner of MCD, Deputy Commissioner of MCD and Supdt. Engineer of Najafgarh Zone, MCD wherein it is stated that “...as per the mandate of

section 478 of the DMC Act, 1957, after the expiry of the given time period, this matter shall be referred to the court of law for proper adjudication". As this period of two months from the date of issue of this notice was over, the complainant sent this complaint to the Lokpal of India.

6. Having perused the complaint and the enclosed documents, the Full Bench was of the view that the matter required to be probed as the allegations were serious containing specific details, involving non-compliance of building regulations and construction of illegal / unsafe structures, posing grave risk to the safety and life of the residents. Therefore, vide Order dated 27.09.2023, the complaint was referred to the CVC for causing a Preliminary Inquiry by the DSPE/CBI to ascertain whether there existed a *prima facie* case for proceeding in the matter, in accordance with the procedure stipulated under Section 20 (1) (a) read with Section 20(2) of the Lokpal and Lokayuktas Act, 2013 and sending a report to the Lokpal of India, preferably before 11.12.2023.

7. In compliance with this Order dated 27.09.2023, the CVC vide letter dated 05.03.2024, has forwarded the Preliminary Inquiry Report received from the DSPE/CBI, along with the comments of the Competent Authority. The details of alleged unauthorized construction on the properties are given along with status of the action taken thereof in this report.

8. On the allegation against the said Government servant for not taking action in respect of illegally constructed properties in Mahipalpur Ward No.133 of MCD, it has been found that he was posted as JE in ward No.133 (Mahipalpur) previously from 16.08.2022 to 23.04.2023 and again from 01.11.2023 till date. Of the unauthorized constructions of twelve properties as given in the complaint, the said Junior Engineer disposed of complaints related to nine properties, seven during his previous tenure and two during his present tenure. The complaints pertaining to remaining three properties were handled by his successor who booked these unauthorized constructions

under DMC Act. The statements of the owners of the said properties were recorded during the Preliminary Inquiry.

9. When the said public servant was asked during inquiry about the reason for not taking action against the unauthorized construction on certain properties, later booked by his successor, he stated that during his earlier tenure in Ward No.133, he was on leave for some time as his father passed away. After coming back from leave also, he was in grief. The pendency had gone up in his wards because he could attend to urgent works only. The workload was also very heavy. In the meantime, he was transferred from Ward No.133 of Mahipalpur and the pending complaints were handed over to his successor who initiated action against three properties. His successor also could not initiate action against two properties due to work load and the same were handed over back to the said Government servant when he was reposted. Thereafter, he booked the remaining two properties and initiated sealing action and prosecution action under the DMC Act against the unauthorized construction on the said properties. In his statement, his successor has also corroborated this version.

10. In view of the above, it is held during the Preliminary Inquiry that even though there was delay on the part of the public servant concerned in the disposal of complaints pertaining to certain properties, it cannot be conclusively established that he did not take action on these complaints intentionally to favour the builders/owners as all these properties have later been booked under the DMC Act.

11. During Inquiry, no evidence qua the alleged bribe taking on the part of the Government servant concerned has been found. Moreover, the owners of the alleged properties have also denied having paid bribe to any MCD officials or Delhi Police Personnel for the construction/repair work.

12. Regarding the allegation levelled by the complainant that based on his complaint, two officers were transferred to different zones but the said

Government servant continued to serve in Ward No.133 and remained there for almost one year, the Preliminary Inquiry has disclosed that he joined the office of the Executive Engineer/MCD, Nazafgarh Zone in August 2022 only and remained posted in Ward No.133, Mahipalpur, New Delhi till 23.04.2023. As he was on leave due to the death of his father in January 2023, this resulted in increase in pendency in his wards. He was transferred from Ward No.133 and another JE was posted in his place.

13. In October 2023, the Monitoring Committee of the Supreme Court had directed to change the then staff of Ward No.133. This ward was allotted back to the said JE as he was well acquainted with the area. The transfer of two other officers were also found to be routine during this Preliminary Inquiry.

14. On the allegation that no action was taken on two separate complaints on 18.10.2022 and 14.12.2022 filed against the said public servant for protecting and promoting illegal construction activities in his jurisdiction, the preliminary inquiry has revealed that the Dy. Commissioner, Nazafgarh Zone filed the above complaints on 15.11.2022 and 11.01.2023 respectively after considering the explanation of the concerned public servant.

15. It has been further stated in the Preliminary Inquiry Report that no specific details have been provided in the complaint relating to the allegation of significant increase of moveable and immovable assets of the public servant. As per the AIPR Dossier relating to him, the immovable property return filed by the said public servant since joining to the year ending 2022 is NIL. During inquiry from the MCD officials, it is reported that he follows a simple life style and lives at his parental house in Dabri Extension.

16. During inquiry, the allegation of removing the records pertaining to the alleged construction has also not been substantiated because MCD staff provided all the requisite record pertaining to the complaints of alleged constructions.

17. Further, no evidence has emerged in respect of the allegations levelled in the complaint that the said JE had taken bribe/favour from the owners/builders in Mahipalpur Ward No.133 of MCD for allowing illegal constructions. Out of the twelve complaints given by the complainant for the unauthorized construction in Ward No.133 during the tenure of the concerned public servant, he has taken action on seven complaints in his previous tenure in Mahipalpur Ward No.133 and on two complaints in his current tenure. Though there was delay on his part in the disposal of complaints pertaining to certain properties, it could not be conclusively established that he did not take action on these complaints intentionally to favour the builders/owners, as later on all these properties were booked under the DMC Act by his successor and later by him after he was reposted there. It is, therefore, held in the Preliminary Inquiry that no case exists against the public servant concerned for investigation or departmental proceedings.

18. The comments of the Competent Authority have also been received wherein the view expressed is that the misconduct of failure to initiate timely action against unauthorized construction by area engineer does not attract criminal liability and the same needs to be dealt with by initiating departmental disciplinary proceedings, if any official/officer is found to be responsible in such cases.

19. It is further mentioned in the preliminary inquiry report that *“during inquiry, the following areas of concern have been observed which are required to be addressed for the improvement and better functioning of MCD Building Department:-*

- a. *Direction may be issued to the Commissioner of MCD to adopt a SOP in MCD to deal with the complaints related to unauthorized constructions and to maintain the record of the complaints which include timely disposal of complaints and intimation to the complainant about the findings.*



- b. *Further, a mechanism should be developed in coordination with other agencies to take prompt action to stop any kind of reported unauthorised construction at the initial level itself and the responsibilities should be fixed of each and every level.*
- c. *Consolidated directions may be issued to concern authorities (BSES, Jal Board etc.) not to provide electricity connections/water connections etc. at any cost without proper sanction of plan by the land owning agencies or on report from the MCD.”*

20. After taking into consideration all the material facts on record, the Bench is inclined to agree with the findings of the Preliminary Inquiry in which no case is made out for proceeding further against the said public servant. Certain gaps and areas of concern that have been noticed during the preliminary inquiry may be examined and appropriate remedial measures may be taken by the Commissioner, MCD for improving the system.

21. With these observations, the complaint is disposed of.

  
COURT MASTER  
LOKPAL OF INDIA