



LOKPAL OF INDIA

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

Complaint No. : 2949/2022
Date : 19th October 2023
Coram : Justice Abhilasha Kumari
Judicial Member

Smt. Archana Ramasundaram
Member

Shri Mahender Singh
Member

ORDER

The matter relates to a complaint filed against illegal encroachment in certain DDA (Delhi Development Authority) Flats at Kalkaji. The complainant alleged that the said encroachment had been allowed by the government officials and the agencies concerned and that no action was taken by them despite his lodging complaints in this connection.

2. This complaint was placed before the Full Bench of the Lokpal of India on 22.11.2022 and vide an order of the same date, the complaint was referred to the Vice-Chairman, DDA for sending a status report in the matter.

3. The DDA sent a reply vide their letter dated 13.03.2023 to the effect that the complaint was forwarded to the concerned Nodal Officer(s) of South Delhi Municipal Corporation (SDMC) and Delhi Development Authority on STF Web-Portal for necessary action and that the status of the complaint could be viewed on STF web-portal. This obviously was not a proper reply and therefore, a reminder dated 20.03.2023 was sent by the Lokpal Registry to the Vice-Chairman, DDA, for expediting a status report in the matter.

4. The matter again came up before the Full Bench on 31.05.2023. The Bench noted with displeasure that instead of sending a status report, the Assistant Director (Planning), DDA had referred the matter, in a routine manner, to the nodal officer(s) of SDMC and DDA on STF web-portal and had also asked, rather impertinently, the Lokpal to obtain the status from the STF web-portal and the nodal officer(s) of DDA and SDMC. This showed that the order of the Lokpal of India had been handled in a very casual manner and the matter was not given due attention. Hence, the Vice-Chairman, DDA was directed, vide Lokpal Order dated 31.05.2023, to issue suitable instructions to the staff concerned and ensure that the orders passed by the Lokpal of India were given priority in future and be complied with promptly and appropriately.

5. Vide the same Order dated 31.05.2023, the Full Bench also directed the Lokpal Registry to send a copy of this Order by name to the Vice-Chairman, Delhi Development Authority in order to draw his personal attention to this long pending matter, with the directions to send a report early in the matter, preferably before 19.07.2023.

6. The subsequent months witnessed a plethora of correspondence exchanged among the officials concerned who seemed to have woken up from a deep slumber, at least in respect of this complaint. This also resulted in submission of multiple reports by the concerned civic agencies to the Lokpal. To start with, the DDA, in compliance with Lokpal Order dated 31.05.2023,



informed vide letter dated 07.06.2023, that Kalkaji DDA flats were constructed in 1978-80 and that *"after allotment of the said flats, the area was declared de-notified by virtue of which all building activities & services stands transferred to MCD. Any matter related to addition/ alteration/unauthorized construction of the flat falls under the jurisdiction of MCD"*.

7. The above Report dated 07.06.2023 of the DDA was placed before the Division Bench of the Lokpal on 12.07.2023. Taking the stand of the DDA on record, the Bench referred the complaint this time to the Commissioner, MCD, on the point of jurisdiction and directed to send a status report in the matter within six weeks, preferably before 31.08.2023.

8. In the meantime, the Vice Chairman, DDA, in compliance of the Order dated 31.05.2023 of the Full Bench of the Lokpal, took up the matter with the Commissioner, MCD and also with the Chief Executive Officer, DUSIB, New Delhi, vide his DO letters dated 19.07.2023 in which he mentioned that *"immediate cognizance was taken by STF and the issue was discussed in the meeting of STF, wherein the concerned local body was asked to take the requisite action"*. The Vice-Chairman, DDA, noting the displeasure expressed by the Bench, also added that *"it is extremely unfortunate that the report regarding the matter which was required to be sent to Hon'ble Lokpal before 19th July, 2023 is still not available. It has been informed that MCD and DUSIB are the concerned Agencies but no conclusive action/reply has been received in STF. Due to this inaction, STF is unable to take any further action"*. The Vice-Chairman also asked the DUSIB to appreciate the fact that STF was mandated to take time-bound action which was possible only with the full support of member bodies and therefore, the CEO, DUSIB should give suitable directions to the concerned nodal officers to accord utmost priority to the matters of STF and ensure timely, accurate and conclusive action in the said matters.

9. Responding to the above instructions of the Vice-Chairman, DDA, the Commissioner (Planning), DDA submitted a detailed report vide letter dated



19.07.2023 to the Lokpal, informing that the said matter was discussed in the STF meeting on 30.06.2023. A copy of the relevant extract of the minutes was also enclosed with this letter dated 19.07.2023 of the DDA wherein it was stated that the area had been de-notified and pertained to MCD. It was also reported that the *“Vice-Chairman, DDA has taken a serious view on the indecisiveness and inaction on the part of the local bodies and the same has been communicated to the SDMC and DUSIB”* and that *“A show cause notice has also been issued to the concerned coordinating officer in STF Cell, DDA to ensure no such delays occur in future. The officers have also been instructed to ensure ready disposal and timely action and conclusive reporting on the issues received in the STF cell, DDA”*.

10. While perusing this report dated 19.07.2023 of the DDA as well as the as the annexures enclosed, the bench took note of the letter dated 10.7.2023 of the MCD in which it was stated that *“since these flats were built/owned and allotted by DUSIB, DUSIB is requested to take necessary action in the matter, as per the order passed by the Hon’ble Lokpal of India at their end, at the earliest”*. As per this stand taken by the MCD, the DUSIB (Delhi Urban Shelter Improvement Board), having the required jurisdiction over the said flats, had the responsibility to comply with the directions of the Lokpal.

11. The disturbing trend of passing the buck did not end even at this stage! Not to be outdone in this blame game, the DUSIB, vide letter dated 13.07.2023 replied that *“the said flats were allotted to Indian Air Force (for Staff Quarters) long back, and these flats have not been surrendered back to DUSIB till date. So, it is the sole responsibility of Indian Air Force to vacate the encroachment on the said flats and to ensure/ stop any further encroachment on the allotted flats”*.

12. While this exchange of letters was going among these agencies, a report dated 27.07.23 was submitted by the Deputy Commissioner, MCD, South Zone, in compliance of the Order dated 12.07.2023 of this Bench. It was



confirmed by the MCD that during the inspection of the said site, illegal occupation/encroachment was found in surroundings of these flats, "*horizontally as well as vertically*". Some of the flats were also found to be locked. In this Report, the MCD also furnished the details of their correspondence with the DUSIB for removal of encroachment. It was also mentioned by the MCD that "*the said flats were built/owned and allotted to Indian Air Force by DUSIB by executing agreement under certain terms and conditions which were agreed by both i.e. DUSIB and Indian Air Force and to which MCD was never a party*".

13. Meanwhile, DUSIB also came up with its version vide letter dated 28.07.2023 in which it was reported by the Executive Engineer, DUSIB that necessary correspondence had been initiated with the MCD officials and that after receiving their response, DUSIB would take up the matter with the IAF authorities for removal of the encroachment for which necessary assistance would be provided to them by DUSIB.

14. The matter was placed before the Division Bench on 08.08.2023. The Bench viewed with concern that instead of taking a holistic view and understanding their respective responsibility in keeping the city free of illegal encroachments, the civic agencies were indulging in passing the buck.

15. Moreover, even though it was finally accepted that the ownership of the said flats rested with the DUSIB and these were allotted to Indian Air Force (to be used as Staff Quarters), the DUSIB was yet to explain as to when these flats were allotted to the Indian Air Force, for what period the allotment was done and what were the terms and conditions of the said allotment. Besides, it was also not clear under what circumstances, these flats were allotted on rent basis to the Indian Air Force as this did not appear to fall under the mandate of the DUSIB.



16. From the available correspondence, the bench could also infer that the matter had been handled at a rather junior level in DUSIB and there appeared to be total apathy and an attempt to wash their hands off the problem by shifting the responsibility to IAF. Since DUSIB appeared to be the lawful owner of these flats, their stand that *"it is the sole responsibility of IAF to get the encroachment removed from the said flats and to ensure/stop any further encroachment on the allotted flats"* did not appear to be correct. If the terms and conditions of allotment had been violated, resulting in illegal occupation/encroachment, it was the responsibility of the DUSIB also to take note of that and initiate necessary action for removal of illegal occupation/encroachment on their property.

17. Therefore, taking into consideration the reports of DDA, MCD and DUSIB, the Division Bench, vide an Order of the same date, i.e. 08.08.2023, directed that the matter be personally monitored by the CEO, DUSIB who should ensure that prompt and lawful action was taken against alleged illegal occupation/encroachment in and around their property. The CEO, DUSIB was also directed to ensure effective coordination with the DDA and the MCD in the matter. The MCD was directed to provide requisite assistance to DUSIB in their efforts to free their property from illegal occupation/encroachment in a time-bound manner. The Bench further directed that a report of the Action Taken in this regard should be submitted by the DUSIB to the Registry of the Lokpal of India before 3rd October 2023 and the report should, *inter alia* include (i) Details of the flats allotted to Indian Air Force (ii) Date on which the allotment of these flats and the period for which allotment was done (iii) Terms and conditions of allotment to the IAF and (iv) Any other relevant factor regarding the allotments.

18. In compliance with above Order of the Bench, DUSIB has sent an Action Taken Report (ATR) dated 29.09.2023 which is placed before us today. It has been submitted by DUSIB that the *"sealing/eviction programme has been completed peacefully with the help of Delhi police force, Police Station Kalkaji,*



Enforcement division staff and with the representative of Indian Air force along with field staff of DUSIB". A list giving the names of the staff, who were present during the said sealing/eviction of the said flats on 25.09.2023, has also been attached with this Report.

19. We have perused the material on record. It has taken a protracted correspondence at various levels and several hearings by the Bench to ensure action for removal of the said illegal encroachment. We hope that these flats would be hereafter utilized in accordance with the mandate entrusted to the DUSIB.

20. However, we are constrained to point out that that this delayed action, apart from confirming the veracity of the complaint before the Bench, is also a sad commentary on the state of affairs prevailing in these civic agencies, particularly the DUSIB. We observe that the report of the CEO, DUSIB is silent on the specific queries raised in our last Order dated 08.08.2023. No details have been furnished by the DUSIB relating to the allotment of the said flats to the IAF. The crucial questions as to how this encroachment was allowed in the first place and why no field visits were undertaken, remain unanswered. This does not rule out the probability of corruption, connivance and a possible nexus of the public servants with the land mafia as illegal encroachment on government property cannot come up without the patronage of the officials concerned.

21. Had the officials of these agencies been vigilant and had there been a proper system of regular inspection, field visits and review of allotment / occupancy of flats in place, this situation would not have arisen. Therefore, the concerned officials in the DUSIB should also be held accountable. We leave it to the wisdom of the Head of the DUSIB to take suitable action in order to prevent such neglect of official responsibilities in future.



22. Besides, what has shocked us further is the woeful lack of coordination among these civic agencies. It needs no emphasis that illegal encroachment, unauthorized construction and land mafia cannot thrive without their unholy nexus with corrupt public servants. Hence, a concerted and coordinated drive is essential on part of all the civic agencies. Not only the coordination meetings be held at regular intervals, there should also be a better follow-up of the action taken to break this illegal and corrupt network.

23. With the above directions, the complaint stands disposed of.

24. The Registry of the Lokpal of India is directed to send this Order by name to the Vice Chairman, DDA, the Commissioner, MCD and the CEO, DUSIB.



COURT MASTER
LOKPAL OF INDIA