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

+ W.P.(C) 784/2018

SOCIETY FOR ABATEMENT OF ILL - GOVERNANCE

..... Petitioner

Through : *Mr. K.S. Wahi, Adv.*

versus

UNION OF INDIA

..... Respondent

Through : *Mr. Sanjeev Narula, CGSC
with Mr. Sarfaraz Ahmad,
Adv. for R-1/UOI.*

*Mr. Sanjoy Ghose, ASC for
R-2/GNCTD.*

*Mr. Sanjeev Sabhrawal, SC
with Mr. Hem Kumar, Adv
for R-3/DDA.*

*Ms. Monika Arora, Adv. for
R-4/South DMC, R-5/North
DMC, R-6/East DMC.*

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **29.01.2018**

1. This writ petition challenges the constitutionality of the *National Capital Territory of Delhi Laws (Special Provisions) Act, 2017* which extends the applicability of the *National Capital Territory of Delhi Laws (Special Provisions) Act, 2011* for a further period of three years up to 31st December, 2020. In our view, in order to enable this court to pass meaningful and effective



orders, the following are also necessary and proper parties for a complete and effective adjudication of the subject matter of the writ petition:

- (i) *Govt. of NCT of Delhi through its Chief Secretary, Players Building, Delhi Secretariat, Delhi;*
- (ii) *Delhi Development Authority through its Vice Chairman, Vikas Sadan, INA, New Delhi.*
- (iii) *South Delhi Municipal Corporation through its Commissioner, Dr. SPM Civil Centre, Minto Road, New Delhi-110002.*
- (iv) *North Delhi Municipal Corporation through its Commissioner, Dr. SPM Civil Centre, Minto Road, New Delhi-110002.*
- (v) *East Delhi Municipal Corporation through its Commissioner, Vikas Nagar, Shahdara, Delhi-110032.*
- (vi) *New Delhi Municipal Council through its Chairman, Palika Kendra, New Delhi.*
- (vii) *Delhi Cantonment Board through its CEO, Office of Cantonment Board, Sadar Bazar, Delhi Cantt., Delhi-110010.*

Amended memo of parties impleading the above as party respondent nos. 2 to 8 shall be filed within three days from today.

2. Subject to the petitioner taking steps, issue notice to the respondents, including the newly added respondent nos. 2 to 8, to show cause as to why *rule nisi* be not issued, returnable on 5th March, 2018.



3. Mr. Sanjoy Ghose, learned ASC who happens to be present in court in some other cases is directed to accept notice for the newly added respondent no.2/GNCTD.
4. Mr. Sanjeev Sabharwal, learned Standing Counsel who is present in court is directed to accept notice on behalf of newly added respondent no.3/DDA.
5. Ms. Monika Arora, learned Standing Counsel for SDMC, NDMC and EDMC, who is also present in court, is directed to accept notice on behalf of the newly added respondent nos. 4 to 6 respectively.
6. Let copies be furnished to the Id. counsel for these respondents within one week.
7. Subject to the petitioner filing process fee, notice shall be issued to the newly added respondent nos. 7 and 8, returnable on 5th March, 2018.
8. This petition brings to the fore a critical aspect so far as land and buildings in Delhi are concerned. The issue flagged in the writ petition are only one of the several other critical issues, rendering all planning in Delhi to a naught and making it possible for people to illegally build, occupy and continue to maintain extremely dangerous structures, imperilling not only their own life but also the lives of others who would have constructed buildings and structures after following the law.
9. Another unfortunate aspect having disastrous financial consequences which has been raised in cases before us relates to transactions and transfers of properties which are the subject matter



of actions initiated by municipal & other authorities, as well as constructions effected on public lands, i.e. trespass on public lands.

10. These infringements of existing legal provisions are possible because the information regarding land and property rights and issues relating thereto have not been put in the public domain.

11. It is not as if this issue has not engaged the attention of the authorities. In this regard, our attention stands drawn to the following circular no. F-27/SDM/KJ/2010/131 dated the 26th of April, 2011 issued by the Lieutenant Governor of Delhi:

“No. F-27/SDM/KJ/2010/131

Dated the 26 April, 2011

Order

The Lieutenant Governor of NCT of Delhi is pleased to order that the order No.F.27/SDM/KJ/2010/97 dated 30.03.2011 banning the registration of transactions in respect of all structures that are unsupported with sanctioned building plans vis-a-vis the requirement of furnishing of a certificate of structural safety issued by the competent authority, be kept in abeyance till further orders.

2. The government of NCT of Delhi has, further, decided that the transactions in respect of properties declared and booked as "unauthorized construction" with effect from April 26 , 2011 shall not be registered till the building is regularized. In order to ensure and implement this, with effect from April 26, 2011 buildings declared and booked as "unauthorized construction" by MCD, shall be put



on the website of MCD, DDA, NDMC and Delhi Cantonment Board on daily basis with foolproof arrangements of informing the concerned sub-registrars.

3. *This order shall come into force from the date of issue.*

*By order and in the name of
the Lieutenant Governor of Delhi”*

12. It is shocking to note that the important directions in this Circular are not being complied with. Why should we not presume official complicity in regard to the illegalities?

13. Before any view and meaningful action can be taken, it is imperative to cause this issue to be examined by experts.

14. We therefore, constitute a committee consisting of the following:

- (i) *Ms. Nivedita Haran, IAS (Retd.) (Mob: 9868579747)*
- (ii) *Mr. Rakesh Khanna, Senior Advocate (Mob: 9810021863)*
- (iii) *Mr. Sanjay Poddar, Senior Advocate (Mob: 9810010557)*

15. This Committee shall engage with all authorities, including Sub Registrar of Documents, land owning and/or controlling authorities having jurisdiction over land as well as construction thereon. The Committee shall submit a report to this court about the manner in which information ought to be placed on a common platform (*such as websites*) which could be freely accessed by all,



including the public and methodology of such information should *inter alia* include:

- (i) *Details of the property (including details of subdivisions (floors/flats etc);*
- (ii) *Upto date ownership of land with complete chain from beginning till date;*
- (iii) *Details of supporting documents;*
- (iv) *Particulars of application(s) for sanction(s) of building plans, additions and alterations;*
- (v) *Orders on above;*
- (vi) *Compliances with sanctions;*
- (vii) *Show Cause Notice(s);*
- (viii) *Demolition Order(s);*
- (ix) *Sealing Orders;*
- (x) *Action taken*
- (xi) *Issuance of occupancy certificate regarding properties as well as portions thereof;*
- (xii) *Full details of litigation, if any, its stage and outcomes.*

16. Such information must also include details of the recorded owners of the properties (including sub-divisions) with the offices of the Sub-Registrars.

17. For the above purpose, the Committee may take sample representative areas from all districts (South/North/East/West); all authorities (Municipal Corporations/New Delhi Municipal Council/Delhi Cantonment Board); freehold, leasehold properties; urban villages; plotted developments and flats; farmland/villages and any other categories of land/properties.

18. In its report, the Committee should make recommendations



of the manner in which there would have to be immediate updation of the information (as well as details of any change in the status thereof) on the website of the authorities.

19. Each of the authorities is directed to nominate within three days from the receipt of this order a nodal officer to the Committee not below the rank of Deputy Commissioner wheresoever such position exists. Where such position is not there, the authority shall nominate an officer in an equivalent designation to represent it and assist the Committee.

20. We also appoint Ms Vibha Mahajan Seth, Advocate (Mob.: 9810702410) and Mr. Shohit Chaudhry, Advocate (Mob.: 9999091964) as counsels who would assist the Committee and represent it before us. It shall be the responsibility of these counsels to, jointly and severally, facilitate the Committee in the collection and collation of the information, examination of law; to render such assistance as requested and also to represent the Committee before us, and take all necessary steps in the Registry.

21. The Chairperson of the New Delhi Municipal Council shall provide suitable office space in the Headquarters. The space earmarked shall be informed to Ms.Nivedita Haran to enable inspection and confirm suitability.

22. Members of the Committee shall be paid a sum of Rs.1,00,000/- each which shall be shared equally between the Government of NCT of Delhi; all the three municipal corporations; the Delhi Development Authority; the New Delhi Municipal Council and the Delhi Cantonment Board. The members of the



Committee would be entitled to travelling allowances @ Rs.2,000/- for each day of their meetings. It shall be open for the court commissioners to arrange for their vehicles for the purpose of spot inspection as well as transportation for the meetings and raise the bills in terms of the above.

23. Each of the counsels shall be paid an amount of Rs.33,000/- each in the like manner.

24. So far as the expenses are concerned, the bills of actual expenses shall be collected from the Committee fortnightly by the Chief Law Officer of the South Delhi Municipal Corporation. For the purpose of ease of payment, payment shall be effected by the South Municipal Corporation of Delhi. It shall be open for its Chief Law Officer to *pro rata* divide the above amounts paid to the Committee between the three Corporations, the New Delhi Municipal Committee, Delhi Cantonment Board. All of them shall reimburse the amounts to the South Delhi Municipal Corporation.

25. So far as secretarial assistance is concerned, the same shall be facilitated by South Delhi Municipal Corporation. The Committee would be at liberty to arrange its own secretarial assistance and submit bills of actual expenses in the same manner as the other expenses set out above which shall also be so paid.

26. It would be the responsibility of the respondent no.1 to ensure adequate provisions of either conveyance or conveyance charges to the members of the Committee on the dates they appoint for making inspections/sittings.

27. So far as service of notices as deemed necessary by the



Committee is concerned, the same shall be effected by the above authorities concerned within whose jurisdiction the persons/properties/authorities regarding which the notice to be served, are located, reside or work for gain.

28. A direction is issued to all authorities to render every assistance to the Committee.

29. A report shall be submitted to this court within two weeks of the commencement of their proceedings.

30. The petitioner shall make available a copy of the petition to all the newly added respondents.

31. List on 5th March, 2018.

Dasti.

ACTING CHIEF JUSTICE

JANUARY 29, 2018/kr

C.HARI SHANKAR, J