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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 14137/2022 & CM APPL. 12099/2024,**

ANIL

.....Petitioner

Through: **Ms. Vagisha Kochar, Adv.**

versus

DELHI POLLUTION CONTROL COMMITTEE & ORS.

.....Respondents

Through: **Mr. Ashutosh Gupta, Adv.**
Ms. Sakshi Popli, Adv for R-1.
Mr. N. K. Kantawala, Mr. A. M. Nair,
Mr. Chetan Singh, Mr. Satyender
Chahar, Adv.
Mr. Utsav Singh Bains, Mr. Prashant
Pathak, Mr. Ravi Panday, Adv for R-
2.
Mr. Abhay Kumar, Mr. Shagun Ruhil,
Mr. Karan Chopra, Adv.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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20.08.2024

CM APPL. 12483/2024

1. The petitioner is essentially seeking directions for de-sealing of the property bearing no. 4418/8, Jai Mata Market, Tri Nagar, Delhi-110035. On perusal of the facts and the submissions made by learned counsel appearing for the parties, it appears that the alleged reason for sealing of the property is alleged operation of the industrial activity in residential area. Learned



counsel who appears for the petitioner, however, submits that the veracity of the respondent's claims and subsequent action has already been set aside by the AT-MCD *vide* its final order which remains unchallenged at the instance of the respondent and therefore, the petitioner's case should not be subjected to further adjudication by any further Committee.

2. Learned counsel who appears for the respondent-MCD, however, submits that there have been various developments with respect to the mechanism as to how the sealing and de-sealing will have to take place in matters pertaining to the industrial activity being carried out over a residential area, where the sealing has taken place upon the directions of the Monitoring Committee. According to him, *vide* order dated 13.09.2022 in W.P. (C) 4677/1985 titled as ***M.C. Mehta v. Union of India***, the Supreme Court has appointed a Judicial Committee of two Hon'ble former Judges who would take a call on all applications keeping in view the conspectus as has been delineated in the said order. Learned counsel then also takes this Court to various directions passed in the aforesaid order, the relevant excerpts of which are reproduced hereunder as:-

"It is in these circumstances that the last date of hearing on 24.04.2022, this Court explored the aspect of setting up of an independent judicial body to look into the concerns of the applicants to be presided over by retired Judges. We have opined that once the Judicial Committee so appointed directs de-sealing or rejects the same, the application would lie to this Court and we would be adopting the SLP approach. This would facilitate a quick disposal of almost 150 applications pending which continue to rise and it is extremely essential that people who are compliant get the remedy at the earliest.

Such a Judicial Committee is necessary to be empowered to analyze all aspects of the matter, i.e. what is the nature of allotment, whether there is any change of the policy of that allotment, what according to the norms prevalent is permissible and what are the nature of



violation and in view thereof pass necessary orders. The power to direct compounding on payment of charges, if compliance is possible under existing norms, is also an aspect which must vest with the Committee.

In pursuance to the aforesaid observations, the learned Amicus Curiae has placed before us a note for purposes of constitution of the proposed Judicial Committee. We have perused the said note and thus are passing the directions hereinafter keeping in mind the said note and the various proceedings held from time to time

We appoint a Judicial Committee of two hon'ble Judges: 1) Justice Pradeep Nandrajog, retired Chief Justice of the Bombay High Court and 2) Justice G.S. Sistani, retired Judge of the Delhi High Court who would take a call on all these applications keeping the aforesaid conspectus in mind.

The Judicial Committee will have jurisdiction to hear a challenge to these orders, decisions and recommendations of both the Monitoring Committees constituted by this Court vide orders dated 24.03.2006 and 07.05.2004 resulting in action by the Municipal Corporations and Regulatory Committees in respect thereof. The subject matters are as under:

- "i) Sealing and de-sealing of properties;
- ii) Regularization and/or levy of penalties or conversion charges;
- iii) Demolition of unauthorized construction; and
- (iv) Directing the removal of encroachment."

Any person aggrieved by such an order decision or recommendation as already set out above after scrutiny by the Judicial Committee would have a remedy only by filing an application in the present proceedings.

In order to facilitate the disposal of these applications, all pending applications before this Court, challenging the orders passed by the Monitoring Committee in respect of these issues, shall stand referred to the Judicial Committee for consideration and passing orders. A list of these applications have been annexed to the note as Document No. 1. The applications listed today also would stand transferred to the Committee and if some applications have been missed out, the



applicants may approach the learned Amicus Curiae who would inform the Judicial Committee accordingly.

There are some reservations expressed by the Amicus Curiae about certain applications filed by associations/federations. We may note that the remedy for individual cases cannot lie by the associations/federations moving these applications as the factual scenario may vary.

However, if there is a single principle which has to be settled, then the application to that extent can be considered on behalf of these associations/federations by the Judicial committee and for individual relief, the members of the associations/federations will have to move the Committee thereafter.”

3. It is thus seen that the Judicial Committee has been held to be in-charge to take the decision with respect to the challenge laid to the recommendations of both the Monitoring Committees earlier constituted by the Supreme Court *vide* orders dated 24.03.2006 and 07.05.2004. The subject matters which would fall within the jurisdiction of the Judicial Committee, as has been directed by the Supreme Court, are as under:-

I- sealing and de-sealing of properties

II-Regularization and/or levy of penalties of conversion charges.

III-Demolition of unauthorised construction and directing the removal of encroachment.

4. The facts of the case would exhibit that, as of now, the property in question remains sealed in the hands of the respondent-Corporation since 01.02.2015 as per the directions of the Monitoring Committee. The question as to whether the petitioner is entitled for de-sealing will have to be looked into by the Judicial Committee appointed by the Supreme Court. The Court, therefore, in the instant writ petition, instead of directing the respondent-Corporation to de-seal the property deems it appropriate to relegate the



petitioner before the Judicial Committee for ventilation of his grievance. Reserving all rights and contentions in favour of the petitioner, the instant application stands disposed of.

W.P.(C) 14137/2022

5. Let the remaining respondents to file their respective counter affidavits to the main writ petition.
6. Let this matter be called out on 13.03.2025.

PURUSHAINDR KUMAR KAURAV, J
AUGUST 20, 2024/KG