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Court : Delhi

Decided On : Jan-16-2001

Reported in : 2001IIAD(Delhi)818; 2001CriLJ1064; 89(2001)DLT572; 2001(57)DRJ523; 2001RLR144

Judge : Mr. Anil Dev Singh and; Dr. Mukundakam Sharma, JJ.

Acts : [Delhi Municipal Corporation Act, 1957](#) - Sections 54, 375, 354, 356, 357, 465 and 469; [Contempt of Courts Act, 1971](#)

Appeal No. : Civil Writ Petition No. 5945 of 2000

Appellant : Courts on Its Own Motion

Respondent : In the Matter of Statement Made by Shri Raman Duggal, Adv.

Advocate for Pet/Ap. : Shri P.N. Lekhi, Senior Adv.,; A.S. Chandhiok, Senior Adv., and;

Judgement :

ORDER

ANIL DEV SINGH, J:

1. A news item appearing in the Hindustan Times dated September 28, 2000 led to issuance of a suo moto notice to the Commissioner, Municipal Corporation of Delhi (for short 'MCD'). The news item report stated as follows:-

'Explanation sought from MCD counsel

An Explanationn has been sought from MCD counsel Raman Duggal for his reported remark in the Delhi High Court on MCD officials taking money.

The remark by the MCD counsel was reportedly made before a division bench of the HC in connection with unauthorised constructions. The MCD in a press statement issued today said that Duggal exceeded his brief when he reportedly said, 'If we take any action against junior engineers, there will be none left. The officials take money and that is a ground reality.' MCD chief law officer said that the law department issued no such instructions whatsoever to the counsel. He said that Duggal has been given time till Sept. 30 to give an Explanationn.'

2. Pursuant to the notice, an affidavit of the Commissioner, MCD, was filed on October 18, 2000. Along with the affidavit, a copy of the communication dated September 26, 2000 by the Chief Law Officer, M.C.D., addressed to Mr.Raman Duggal, Advocate, was filed as Annexure 'A' thereto. It appears that the news item was based upon this letter. The letter reads as follows:-

'Sir,

It has been reported in today's different newspapers including the Times of India and Indian Express that you have made certain statements in the court that if action is taken against junior engineers there will be none left and the officials take money and that is the ground reality. A photo copy of the news clipping is being enclosed herewith which has been published in the Times of India of 26th Sept. 2000.

You would appreciate that such statements are incorrect as MCD has been taking actions against all those officials who have been found to have committed any lapses with respect to their official working. The statement regarding taking of money being ground reality is also incorrect inasmuch as actions are taken by the

Vigilance Deptt of the Corporation/Anti Corruption Deptt of Govt of NCT of Delhi and CBI as and when any such case is detected.

In view of the above, you may kindly explain as to under what circumstances such statements have been made by you in the Court and under whose instructions. It would be desirable that your Explanationn/clarification should reach the undersigned on or before 30th Sept. 2000.

Yours faithfully,

Sd/-

(Deepak K. Singh)

Chief Law Officer

Encl: As above.'

3. As is apparent from the aforesaid letter, the Chief Law Officer, MCD, called for the Explanationn of Mr.Raman Duggal, Advocate, in regard to the statement attributed to him by the newspaper report whereby he is stated to have highlighted the factum of corruption amongst the Junior Engineers of the MCD. The controversy is linked with Writ Petition No. 841/98 which was a matter in which the said statement was made before us during the course of proceedings dated September 25, 2000. It may be pointed that the Writ Petition in the first instance was filed before the Supreme Court and was registered as Writ Petition (C) 286 of 1994 which was later transferred to this Court and was renumbered as C.W.P. No. 841 of 1998. The Supreme Court before transferring the matter had made the following directions to the M.C.D. and other authorities :-

'1. We approve the experimental schemes placed before this Court by MCD and NDMC whereunder certain localities have been selected for distribution of polythene bags, door to door collection of garbage and its disposal.

We direct the MCD through Commissioner appointed under Section 54 of the Delhi Act and all other officers of the MCD (particularly Mr.Narang and Mr.Tirath Raj, Joint Directors) to have the city of Delhi scavenged and cleaned everyday.

The garbage/waste shall be lifted from collection centres every day and transported to the designated place for disposal.

All recepticals/collection centres shall be kept clean and tidy everyday. The garbage/rubbish shall not be found spread around the collection centres and on the roads.

We issue similar directions to the NDMC through S/Shri Baleshwar Rai, Administrator, Lal Chand, Chief Sanitary Inspector, Dr.G.S. Thind, Deputy Medical Officer of Health and Dr.V.N. Reu, Chief Medical Officer.

2. We direct Government of India, through Secretary, Ministry of Health, Government of National Capital Territory of Delhi through Secretary, Medical and Public Health, MCD through its Commissioner and NDMC through its Administrator to construct and install incinerators in all the hospitals/nursing homes, with 50 beds and above, under their administrative control. This may be done preferably within nine months. A responsible officer of each of these authorities shall file an affidavit in this Court within two months indicating the progress made in this respect.

3. We direct the All India Institute of Medical Sciences, New Delhi through its Director to install sufficient number of incinerators, or an equally effective alternate, to dispose of the hospital waste. The Director shall file an affidavit within two months to indicate the progress made in this respect.

4. We direct the MCD and NDMC to issue notices to all the private hospitals/nursing homes in Delhi to make their own arrangements for the disposal of their garbage and hospital waste. They be asked to construct their own incinerators. In case these hospitals are permitted to use facilities (for collection, transportation and disposal of garbage) provided by the MCD and NDMC then they may be asked to pay suitable charges for the service rendered in accordance with law.

5. We direct the Central Pollution Control Board and the Delhi Pollution Committee to regularly send its inspection teams in different areas of Delhi/New Delhi to

ascertain that the collection, transportations and disposal of garbage/waste is carried out satisfactorily. The Board and the Committee shall file the reports in this Court by way of an affidavit after every two months for a period of two years.

6. We direct the Government of the National Capital Territory of Delhi to appoint Municipal Magistrates (Metropolitan Magistrates) under Section 469 of the Delhi Act and Section 375 of the New Delhi Act for the trial of offence under these Acts. Residents of Delhi be educated through Doordarshan and by way of announcements in the localities that they shall be liable for penalty in case they violate any provisions of the Act in the matter of collecting and disposal of garbage and other wastes.

7. We direct the Doordarshan through its Director General to undertake a programme of educating the residents of Delhi regarding their civic duties under the Delhi Act and the New Delhi Act. This shall be done by making appropriate announcements displays on the television. The residents of Delhi shall be educated regarding their duties under Sections 354, 356 and 357 of the Delhi Act and similar duties under the New Delhi Act. They shall also be informed about the penalties which can be imposed under Section 465 of Delhi Act and similar provisions under the New Delhi Act. The MCD and the NDMC shall also have announcement made by way of public address system in various areas in Delhi informing the residents of their duties and obligations under the Delhi Act and the New Delhi Act.

8. The MCD has placed order for the supply of about 200 Tippers with the Ordinance Vehicle Factory, Jabalpur (Government of India) in May, 1995. The Tippers have not as yet been supplied. We direct Secretary, Ministry of defense Production, Government of India to have the Tippers supplied to the MCD as expeditiously as possible and preferably within three months. The Secretary shall file an affidavit in this Court within six weeks indicating the progress made in this respect.

9. The MCD has indicated that three SLF sites have already been approved by the Technical Committee of the DDA but the same have not been handed over to the MCD by the Development Commissioner, Government of NCT of Delhi. Since Bhatti mines are situated within the ridge area, we do not permit the same to be

utilised for the disposal of the solid waste as at present. We, however, direct the Development Commissioner, Government of NCT Delhi to hand over the two sites, near Baderpur on Jaitpur/Tejpur Query Pits and Mandi Village near Jaunpur Query Pits. The sites shall be handed over to the MCD within three months. The Development Commissioner shall file an affidavit in this Court before March 31, 1996 indicating the progress made in this respect.

10. The compost plant at Okhla be revived and put into operation. The MCD shall start operating the plant, if not already operating, with effect from June 1, 1996. The MCD shall also examine the construction of four additional compost plants as recommended by Jag Mohan Committee. The MCD shall file an affidavit in this Court within six weeks indicating the progress made in re-starting the Okhla Compost plant and in the construction of four new plants.

11. The MCD shall not use the filled-up SLFs for any other purpose except forestry. There are twelve such sites including Rajiv Gandhi Smriti Van. We direct the MCD to develop forests and gardens on these 12 sites. The work of a forestation shall be undertaken by the MCD with effect from April 1, 1996. An affidavit shall be filed by the end of April indicating the progress made in this respect.

12. The MCD and NDMC shall construct/instal additional garbage collection centres in the form of dhalaos/trolley/steelbins within four months. An affidavit in this respect shall be filed by a responsible officer of each of these authorities within two months indicating the progress.

13. We direct the Union of India and NCT Delhi Administration through their respective appropriate Secretaries to consider, the requests from MCD and NDMC for financial assistance, in a just and fair manner. These Government shall consider the grant of financial assistance to the MCD and NDMC by way of subvention or any other manner to enable these authorities to fulfill their obligations under law as directed by us.

14. After some time it may not be possible to dispose of garbage and solid-waste by 'SLF' method due to non-availability of sites. We direct the NCT Delhi

Administration through its Chief Secretary and also the MCD and NDMC to join hands and engage an expert body like NEERI to find out alternate method/methods of garbage and solid waste disposal. The NCT Delhi Administration shall file affidavit in this Court within two months indicating progress made in this respect.'

4. On August 28, 2000 we had directed the M.C.D. and other authorities to file affidavits to show whether the directions of the Supreme Court had been complied with. It may be noted that the Central Pollution Control Board, which is a party to the Writ Petition, had filed an affidavit whereby it had pointed that unhygienic and insanitary conditions were prevailing in various areas under the jurisdiction of MCD. Keeping in view the directions of the Supreme Court, we selected ten sites in the first instance where the MCD was required to create sanitary and hygienic conditions. We also took cognizance of the fact that there were large scale unauthorised constructions and encroachments in the various areas of Delhi. This situation obviously would not have developed if the concerned officials of MCD were performing their duties. After all construction of a building takes time and it cannot come up overnight. Each area is under the jurisdiction of a Junior Engineer, Executive Engineer, Superintending Engineer and Chief Engineer who are required to take action against unauthorised construction. In view of this situation, questions arise as to why unauthorised constructions were allowed to come up and why action was not taken against officers who closed their eyes to such abominable violations which have desecrated and destroyed aesthetically and ruined the capital of India. Same applies to large scale encroachments. It was in this context that Mr. Raman Duggal, who was counsel for the MCD and also a Member of the Committee appointed by us vide order dated August 28, 2000 to monitor the compliance of the directions given by us in CWP No. 841/98 made the statement.

5. The said statement made by Mr. Duggal in court before us has offended the authorities. It has hurt them so much that the Chief Law Officer, M.C.D., has sought his Explanation. The Chief Law Officer has also disputed his statement in the communication directed to him. It is claimed that action was taken against the erring officers. The stand of the Chief Law Officer does not seem to be correct. In

case action was taken against all the persons who had connived with the owners and builders of unauthorised buildings, the situation in the city would have been different. Instead of checking corruption, unauthorised constructions and encroachments, Explanationn of Mr.Duggal, who was performing his duties as a counsel, an officer of the Court and Member of the Committee appointed by us, was sought by the Chief Law Officer. This was not expected of the Chief Law Officer who is instructed in law and lives by law. This amounts to an interference with the action of a person having duty to discharge in court. It hampers justice and clearly amounts to contempt. It should be clearly understood that a counsel is not a mouth piece of his client. It is the duty of a counsel to uphold truth and honesty. He must stand up against the evil of corruption which is the bane of the society and fight the same. Today the single most important task is eradication of corruption. In making the statement Mr. Duggal has answered the call of duty towards the court. He would have discredited himself if he would have suppressed the truth.

6. Both the constitution and the [Contempt of Courts Act, 1971](#) have armed the High Court with a power and imposed a duty to prevent interference with administration of justice. It appears to us that the Explanationn of Mr.Duggal was called to strike fear in him and to stifle his voice so as to render him incapable of performing his duty before us. Those who have duties to discharge in a court of law must be protected by the law and protection of such persons is vital for the due administration of justice.

7. From the affidavit of the Commissioner, MCD dated November 9, 2000 it appears that the Chief Law Officer had sought the Explanationn of Mr.Raman Duggal with the approval of the Commissioner, M.C.D. The Chief Law Officer and the Commissioner, MCD, were not well advised to adopt this course of action. It is stated before us by the learned counsel for the MCD that no action was contemplated against Mr.Duggal.

8. Both the Commissioner, M.C.D., and the Chief Law Officer, M.C.D., have filed affidavits in which they have tendered their unconditional apology and have stated that they have the highest esteem for the court. Before considering the question

whether or not the apologies should be accepted we would like to test the claim of the alginates of having highest esteem for this court. The best measure to judge the same would be through their actions taken for implementing the order passed in C.W.P. No. 841/98 and other similar matters. In the circumstances, therefore, we will first monitor the implementation of the orders of this Court before considering the question whether or not the apologies should be accepted.

9. List the matter on February 19, 2001.

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