

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH NEW DELHI

ORIGINAL APPLICATION NO. 1150 OF 2024

IN THE MATTER OF:

D5 & D8 RESIDENTS' WELFARE ASSOCIATION,
MODEL TOWN, NEW DELHI

...APPLICANT

VS.

HORTICULTURE DEPARTMENT OF MUNICIPAL CORPORATION DELHI,
KESHAVPURAM ZONE & ANR.

...RESPONDENTS

INDEX

S. NO.	PARTICULARS	PAGE NO.
1	REJOINER ON BEHALF OF APPLICANT TO REPLY FILED ON BEHALF OF RESPONDENT NO. 2 TO ORIGINAL APPLICATION	477-524
2	Annexure A-1 Copy of the list of parks available for online booking in Keshavpuram Zone taken from the website of Respondent No. 1	525
3	Annexure A-2 Copies of the judgments of the Hon'ble Supreme Court in <i>Union of India & Anr. v. Narendra Singh (2008) 2 SCC 750</i> and	526-534
4	Annexure A-3 Copies of the judgments of the Hon[ble Supreme Court in <i>State of U.P. v. Neeraj Awasthi (2006) 1 SCC 667</i>	535-561
5	Annexure A-4 Copy of the DDA Adoption Policy	562-585
6	Annexure A-5 (Colly). Copies of the RTI Applications submitted to the Fire Department and to the Delhi Traffic Police and the replies received	586-593
7	Annexure A-6 Copies of the photographs taken by the Applicant showing improper maintenance of the Park by Respondent No. 2	594-603

8	Annexure A-7 Copy of the order dated 13 September 2024 passed by this Hon'ble Tribunal in E.A. 15/2024	604-609
9	Annexure A-8 Copies of the photographs showing the violation of Noise Pollution (Regulation and Control) Rules, 2000,	610-611
10	Annexure A-9 copy of the Memorandum of Association of the Applicant	612-614

Proof of service 615-616

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**REJOINDER ON BEHALF OF APPLICANT TO REPLY FILED ON BEHALF
OF RESPONDENT NO. 2 TO ORIGINAL APPLICATION****MOST RESPECTFULLY SHOWETH**

1. At the outset, it is submitted that the Reply on behalf of the Respondent No. 2 to the present Original Application filed on behalf of the Applicant is based on patently false and misleading facts and deserves no indulgence from this Hon'ble Tribunal. Respondent No. 2 has misrepresented the facts and concealed material facts to suit its oblique motives. It is further submitted that the contents of the Original Application may be read and treated as part and parcel of the present Rejoinder, and each and every allegation in the Reply, which is inconsistent or contrary thereto, is denied, as though specifically traversed and set forth herein below.

2. PRELIMINARY SUBMISSIONS**A. REPLY IS REplete WITH FALSE STATEMENTS WITH NO
EVIDENCE IN SUPPORT**

- (i) It is respectfully submitted that Respondent No. 2 has built its entire case and attempted to justify its illegal actions on the basis of numerous averments and contentions in the Reply, which are patently false. The

falsity of the said averments and contentions is corroborated by the fact that they are not supported by any evidence but are mere bald statements. The said averments and contentions, therefore, do not merit any consideration of this Hon'ble Tribunal. Such averments and contentions in the Reply are as follows:

- a) In paragraph 2, Respondent No. 2 has stated that it has been organizing the Ramleela event in this Park since 1954.
- b) Again, in paragraph 2, Respondent No. 2 has stated that the Ramleela Event has been consistently held with the prior written permissions of the Municipal Corporation of Delhi, along with requisite approvals from the Fire Department, Police authorities, and other statutory agencies.
- c) In paragraph 3, Respondent No. 2 has stated that it has consistently adhered to all applicable environmental regulations, MCD policies, and judicial pronouncements.
- d) In paragraph 4, Respondent No. 2 has contended the Applicant's apparent intent is to gain control of the Park under the guise of environmental concern. Respondent No. 2 has further stated that the Park is meticulously maintained during and after the Ramleela event and relied on the photographs annexed with the Reply as Annexure R-4.
- e) In paragraph 5, Respondent No. 2 has stated that it has conducted regular plantation drives, employed dedicated gardening staff, and undertaken infrastructural upkeep. It has also

been stated that no environmental degradation or harm has resulted from the Ramleela events over the years. It has been further contended that the Applicant does not represent all the residents of D5 and D8 Blocks of the Model Town area.

f) In paragraph 6, Respondent No. 2 has stated that temporary structures are installed and dismantled without inflicting damage to the Park or its greenery.

g) In paragraph 7, Respondent No. 2 has stated that the Dusshera effigy-burning ceremony is conducted with full compliance of safety protocols and upon obtaining necessary permissions from the Fire Department and Police Authorities. It has been contended that the site for the ceremony is situated away from sensitive infrastructure, including electric substation and gas pipelines. Respondent No. 2 has also stated that it ensures the presence of fire tenders and maintains coordination with emergency services. It has been further stated that the use of diesel generators, food stalls, and sound systems is strictly within the parameters of environmental and municipal regulations, including the Noise Pollution (Regulation and Control) Rules, 2000, and waste management is also done systematically, with post-event clean up.

(ii) It is submitted that the Reply is replete with the above-mentioned bold and exaggerated statements, but not even an iota of evidence has been produced by

Respondent No. 2 in support of such statements, clearly showing that the Respondents have no case either for conducting the Ramleela event at the Park or for maintaining the Park under the MCD's Adoption of Park Policy. The said statements raised by Respondent No. 2 are patently false. On the contrary, the Applicant has explained in detail in the Original Application as well as in the present Rejoinder, the blatant violations on the part of the Respondents of the MCD policies, the directions of the Hon'ble Supreme Court in the *M.C. Mehta* judgment, and the environmental norms. Further, the Applicant has produced copious evidence with the Original Application and is producing further evidence with the present Rejoinder to show such egregious and flagrant violations.

B. NO COGENT REASONS HAVE BEEN GIVEN BY RESPONDENT NO. 2 FOR ITS ILLEGAL ACTIVITIES

- (i) It is respectfully submitted that Respondent No. 2 has justified its illegal actions of conducting the Ramleela event at the Park despite the Park being an Ornamental Park on the ground that the Ramleela event is a pre-existing cultural practice.
- (ii) It is submitted that, firstly, there is no proof that the Ramleela event has been conducted by Respondent No. 2 at the Park since 1954. Respondent No. 2 has neither adduced any evidence that the Park existed in the year 1954, nor has it adduced any evidence that it has been conducting the event since 1954. As per Respondent No. 2's own admission, the only evidence that Respondent No. 2 has been conducting the Ramleela event at the

Park is the permission letters from the Municipal Corporation of Delhi (“MCD”), and the same are from 2006 and not 1954.

- (iii) Secondly, only for the reason that Respondent No. 2 has been conducting the Ramleela event since 2006, does not entitle Respondent No. 2 to conduct the event in violation of the decision of Respondent No. 1 declaring the Park as an Ornamental Park in terms of Circular No. DOH/DDH(HQ)/NDMC/2013/338 dated 22 August 2013 (“**Circular dated 22 August 2013**”). As per clause 2 of the said Circular, no booking of any function, whether religious or social, can be made in an Ornamental Park. It is pertinent to mention here that the Park cannot be booked online and all the bookings done by Respondent No. 2 have been offline. The same is evident from the list of parks available for online booking in Keshavpuram Zone on the website of Respondent No. 1. Respondent No. 1 has deliberately concealed when the Park was declared an Ornamental Park, however, as per the evidence produced on record by the Applicant, at least since 2019, the Park has been an ornamental park. Importantly, considering the status of the Park as an Ornamental Park, the MCD Commissioner banned holding any function at the Park by the order dated 5 November 2019. In the event, the decisions and policies of Respondent No. 1 are allowed to be ignored in such a blatant manner, then they will have no sanctity and can be ignored at the whims and fancies of private parties. Shockingly, Respondent No. 1 has itself ignored its own decision of declaring the Park as an Ornamental Park, the decision of the MCD Commissioner dated 5 November 2019 banning any functions at the Park, and

also its own policy of not giving an Ornamental Park for the booking of a function. Respondent No. 1 has not made any averments in its Short Reply dated 7 March 2025 and Supplementary Reply dated 9 April 2025 regarding the illegal act of Respondent No. 2 holding the Ramlila event in an Ornamental Park and violation of its orders and policies and has instead sought to defend the illegal actions of Respondent No. 1. The same shows clear collusion between Respondent No. 1 and Respondent No. 2. A copy of the list of parks available for online booking in Keshavpuram Zone taken from the website of Respondent No. 1 is annexed herewith as **Annexure A-1**.

- (iv) Thirdly, it is submitted that though Respondent No. 2 may be holding the Ramlila Event since 2006, at least from 2019, the said act is illegal by virtue of the Park being an ornamental park and by reason of the Circular dated 22 August 2013 prohibiting booking of such parks for any function. Even if Respondent No. 1 has been wrongly granting permissions to Respondent No. 2 for conducting the Ramlila Event since 2006, it does not mean that the illegality is liable to be perpetuated. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Union of India & Anr. v. Narendra Singh (2008) 2 SCC 750***, wherein the respondent therein had been mistakenly promoted in contravention of the recruitment rules and the relevant law, and upon the concerned Department realizing its mistake, passed an order holding that the respondent was not eligible to be promoted. The Hon'ble Supreme Court upheld the order of the Department and held as follows:

“32. It is true that the mistake was of the Department and the respondent was promoted though he was not eligible and qualified. But, we cannot countenance the submission of the respondent that the mistake cannot be corrected. Mistakes are mistakes and they can always be corrected by following due process of law...”

Similarly, in the case of **State of U.P. v. Neeraj Awasthi (2006) 1 SCC 667**, the Hon’ble Supreme Court observed that past practices which are illegal need to be corrected.

The relevant part is as follows:

“75. The fact that all appointments have been made without following the procedure, or services of some persons appointed have been regularized in the past, in our opinion, cannot be said to be a normal mode which much receive the seal of the court. Past practice is not always the best practice. If illegality has been committed in the past, it is beyond comprehension as to how such illegality can be allowed to perpetuate. The State and the Board were bound to take steps in accordance with law.”

Copies of the judgments of the Hon’ble Supreme Court in **Union of India & Anr. v. Narendra Singh (2008) 2 SCC 750** and **State of U.P. v. Neeraj Awasthi (2006) 1 SCC 667** are annexed herewith as **Annexure A-2** and **Annexure A-3**, respectively.

- (v) As held by the Hon’ble Supreme Court in the above-mentioned judgements, it is imperative that any illegal activity or past mistake has to be corrected and set right. In the present case, though Respondent No. 1 has been wrongly granting permissions to Respondent No. 2 for conducting the Ramlila event every year despite the Park being an Ornamental Park, it is imperative and expedient that the wrong being committed by the Respondents be corrected and Respondent No. 1 be directed to stop giving permission to Respondent No. 2 for conducting the Ramlila Event.

- (vi) In addition to the above, the act of Respondent No. 2 in conducting the Ramlila Event is in contravention of the Guidelines for Sponsorship/Adoption of Municipal Parks, Central Verges, Roundabouts, Roadside Plantation and Green Strips, etc. for Development & Maintenance by Private Parties. The said Guidelines define the nature and scope of work as:

“Sponsorship/Adoption would be for the purpose of and include development, beautification, landscaping, protection and security fencing of the adopted parks, central verges, roundabouts, roadside plantation and green strips including all green areas as may be specified in the M.O.U. and Maintenance therefore for the stipulated period. No permanent damage of the MCD property will be allowed to be caused by the private party.”

As evident from the above, the adoption of the Park is to be granted only for the purpose of development and beautification of the Park and not for conducting cultural or social events. The same is also reflected from clause 3 of the Memorandum of Understanding dated 25 August 2021 (“**MOU**”) entered into between Respondent No. 1 and Respondent No. 2 under the said Guidelines for giving the Park for adoption to Respondent No. 2. Clause 3 of the MOU states that Respondent No. 2 shall carry out development and maintenance works in the Park with the agreed terms and conditions. Further, clause 4 states that Respondent No. 2 shall keep the Park open for the use of the general public and not for any other purpose, thus, specifically barring any function or event at the Park. Clause 5 states that Respondent No. 2 shall not put up any structures for its own use within the Park, except for security fencing. Clause no.8 mentions that the Sponsoring agency shall not do anything that would cause any permanent damage to the North DMC

property. On the contrary, after adoption, the gates and walls of the park were broken to create favourable entries from the adjacent property, as evident from the photographs attached along with the Original Application. Clause 9 places the responsibility of any loss that may be caused in relation to the Park by reason of theft, fire, natural calamities, or riots solely on Respondent No. 2. Clause 10 specifically states that Respondent No. 2 will comply with all the orders of Respondent No. 1 as well as of courts and shall also abide by the traffic rules. Clause 16 obligates the Committee comprising a representative of the area councillor, a representative of Respondent No. 1, and a representative of Respondent No. 2, to supervise and monitor the development and maintenance works, and the same shall be done thrice in a year and submit a report to the Commissioner of Respondent No. 1.

- (vii) By conducting Ramlila event every year in the Park by putting up structures and in the process causing serious damage to the Park, Respondent No. 2 has caused grave violations of the MOU entered into with Respondent No. 2. The same should be sufficient reason for not giving the Park for adoption and maintenance to Respondent No. 2. However, Respondent No. 1 has not taken any steps against Respondent No. 2. Further, even though clause 16 of the MOU obligates the Committee comprising of a representative of the area councillor, a representative of Respondent No. 1, and a representative of Respondent No. 2, to supervise and monitor the development and maintenance works and conduct inspections thrice a year, no proof of such inspections

has been placed on record either by Respondent No. 1 or Respondent No. 2.

- (viii) Respondent No. 2 has relied on the DDA Adoption Policy 2019, albeit wrongly, and stated that it is properly maintaining the Park as per the said policy. The said policy also does not allow Respondent No. 2 to hold the Ramlila event. It clearly mentions the following:

“Clause 5.0 Permissible Facilities in the Adopted Park

The agency is permitted to use the adopted Park for organizing public events like flower shows, etc. with the prior approval of DDA for a maximum period of 20 days in a year. The agency shall seek prior approval of DDA for any fee being charged for such an event ,if any. Cultural activities would be allowed only at locations with open air amphitheaters. The agency shall not permit the adopted park to be used for organizing private functions.”

- (ix) As per clause 3 of the draft Agreement annexed along with the DDA Adoption Policy, 2019, the adopting agency cannot utilize the Park for any purpose other than maintaining the Park. Clause 3 of the draft Agreement is as follows:

3. That the adopting agency shall not utilize or permit to be utilized the said DDA green/ park for any other purpose whatsoever except to maintain it as a green/ park. The agency shall ensure that no encroachment is made in the green/park.

- (x) Further, clause 31 of the Terms and Conditions annexed to the DDA Adoption Policy states as under:

“Point no.31

Besides the development and maintenance of the park, the agency shall

- *Maintain the pathways, planters, toe walls, etc.*
- *Regularly remove garbage and other wastes.*
- *Install 01 unit open multi gymnasium as per approval.*
- *Provide park furniture @ 01 shelter/05 acres, 06 benches/acre and 04 dustbins/acre as per approved*

sample.”

A copy of the DDA Adoption Policy is annexed herewith as **Annexure A-4**.

- (xi) It is further submitted that the permissions granted by Respondent No. 1 for conducting the Ramlila Event were subject to Respondent No. 2 obtaining permissions from the Fire Department, Police authorities, and other statutory authorities. Respondent No. 2 has stated in paragraph 2 of the Reply that the Ramlila event has been consistently held with the prior written permission of Respondent No. 1 along with requisite approvals from the statutory authorities and, thereby, complied with the aforesaid requirements. However, nothing could be further from the truth. The Applicant submitted an application on 17 May 2025 under the Right to Information Act, 2005 (“**RTI Act**”) to the Fire Department seeking information *inter alia* if any organisation/sanstha/committee had applied for any No-objection certificate or permission for holding any religious or social function in the Park from 2006 to 2024, and whether the Fire Department granted any such No-objection or permission. The Applicant received a response from the Fire Department on 29 May 2025 that no such information was available with the Fire Department, meaning thereby that no organisation/sanstha/committee had applied for any No-objection certificate or permission for holding any religious or social function in the Park from 2006 to 2024. Similarly, the Applicant submitted an application on 15 May 2025 to the Police authorities, particularly to the Delhi Traffic Police, seeking information on whether

Respondent No. 2 had applied for a No-objection to hold any religious/social/cultural function in the Park from 2015 to 2022. The Applicant received a reply on 27 May 2025 from the Delhi Traffic Police that the present Model Town Traffic Circle was established in 2023 and, since its establishment, the office had not received any No-objection request for holding any religious/social/cultural function. Therefore, the statement of Respondent No. 2 that it had obtained all requisite approvals from the authorities, including from the Fire Department and Police authorities, is a blatant lie. Copies of the RTI Applications submitted to the Fire Department and to the Delhi Traffic Police and the replies received are annexed herewith as **Annexure A-5 (Colly.)**.

- (xii) The same also shows the irresponsible, nonchalant, and deplorable conduct of Respondent No. 2, that it can state a white lie in order to justify its actions and mislead this Hon'ble Tribunal without fearing the consequences. It also shows that Respondent No. 2 has scant regard for safety protocols and for the safety of the people attending the Ramlila Event, and its only intention is to conduct the event by any means possible. Therefore, it is axiomatic that none of the statements made by Respondent No. 2 can be relied upon by this Hon'ble Tribunal. On the contrary, the Applicant has made its statements responsibly and with supporting evidence, and this Hon'ble Tribunal ought to consider the same while adjudicating the Original Application.
- (xiii) In addition to the above, as regards maintenance of the Park, Respondent No. 2 has only made bald statements

regarding maintaining the Park properly, as explained in paragraphs A(i) to (ii) above. Apart from the above, Respondent No. 2 has relied on the fact that Respondent No. 1 granted the Park to Respondent No. 2 for maintenance in 2021, and then renewed the contract in 2024, and alleged that the same showed that Respondent No. 2 was properly maintaining the Park. Respondent No. 2 has further alleged in paragraph 5 of the Reply that such decisions were taken by Respondent No. 1 after due consideration. It is submitted that the aforesaid allegations are patently false and the same is evident from the fact that the Short Reply dated 7 March 2025 and Supplementary Reply dated 9 April 2025 filed on behalf of Respondent No. 1 are miserably short of showing any application of mind and the “due consideration” given by Respondent No. 1 for selecting Respondent No. 2 for adopting and maintaining the Park. Respondent No. 2 had not been maintaining the Park prior to 2021, nor did they have any experience in maintaining a park prior to 2021. The reasons behind the decision of Respondent No. 1 to give the Park for adoption to Respondent No. 2 are conspicuous by their absence. There was no application of mind by Respondent No. 1 for allotting the Park for adoption to Respondent No. 2, nor was there any basis. In fact, the Applicant had time and again submitted applications to Respondent No. 1 for adoption of the Park as evident from Annexure A-15 (Colly.) of the Original Application. However, Respondent No. 1 did not take any decision on the same and surreptitiously entered into the MOU with Respondent No. 2 for the adoption and maintenance of the Park. This was done despite the fact that the Park

was not being properly maintained by Respondent No. 2, as evident from Annexure A-19 to the Original Application, and the complaints made by the Applicant in this regard, as evident from Annexure A-17 to the Original Application. The same shows the bias of Respondent No. 1 towards Respondent No. 2. In fact, the Park continues to be improperly maintained, and the renewal of the MOU by Respondent No. 1 in these facts and circumstances is appalling. Broken footpaths have not been repaired, and plastic waste is still being disposed of and not cleaned from the Park, as evident from the latest photographs taken by the Applicant. Respondent No. 2 has placed certain photographs on record as Annexure R-4 to contend that the Park is being well-maintained. However, any modicum of effort made by Respondent No. 2 to maintain the Park is only after the filing of the Original Application by the Applicant in order to create a façade before this Hon'ble Court, and the said photographs cannot be relied upon. Copies of the photographs taken by the Applicant showing improper maintenance of the Park by Respondent No. 2 are annexed herewith as **Annexure A-6 (Colly.)**.

- (xiv) Further evidence of bias of Respondent No. 1 in favour of Respondent No. 2 is the reply received from Respondent No. 1 to the RTI Application submitted by the Applicant, annexed along with the Original Application as Annexure A-3, wherein Respondent No. 1 stated that the Park would not be handed over to anyone else till the Park was being maintained by Respondent No. 2. The same was in direct contravention of the MOU entered into between Respondent No. 1 and Respondent No. 2,

which was for a period of only three years. Realizing their mistake, Respondent No. 1 belatedly renewed the MOU with Respondent No. 2 after the filing of the Original Application. Importantly, again, Respondent No. 1 did not consider the application of the Applicant for adoption of the Park and unilaterally renewed the MOU. Therefore, Respondent No. 1 has not followed the due procedure while granting adoption of the Park in favour of Respondent No. 2. The same has been done in order to grant control of the Park to Respondent No. 2 so that Respondent No. 2 can organize the Ramlila Event without any trouble.

C. RESPONDENTS ARE IN VIOLATION OF DIRECTIONS OF HON'BLE SUPREME COURT IN M.C. MEHTA JUDGMENT

- (i) Without prejudice to the above, it is submitted that the Respondents are admittedly in violation of the directions passed by the Hon'ble Supreme Court in the order dated 9 December 1996, in *M.C. Mehta v. Union of India*. By way of the said order, the Hon'ble Supreme Court directed that a park could not be used for functions for more than 10 days in a month.
- (ii) The said order has been relied upon and referred to in numerous judgments by the Hon'ble Supreme Court, the Hon'ble High Courts, and this Hon'ble Tribunal. In fact, this Hon'ble Tribunal, relying on the directions in the M.C. Mehta judgment, passed the order dated 13 September 2024 in E.A. 15/2024 titled "Residents Welfare Association v. Horticultural Department, Municipal Corporation of Delhi, West Zone", and held that a park could not be permitted to be used for any function for

more than 10 days in a month. A copy of the order dated 13 September 2024 passed by this Hon'ble Tribunal in E.A. 15/2024 is annexed herewith as **Annexure A-7**.

- (iii) Despite the directions of the Hon'ble Supreme Court in the *M.C. Mehta judgment*, Respondent No. 2 admittedly uses the Park for conducting the Ramlila event beyond the 10-day period. Respondent No. 2 occupies the Park for 40-45 days for the event. Respondent No. 2 has tried to justify the glaring violation by stating that the event is only for 10 days, however, the Park is occupied for the rest of the days to facilitate the preparatory and dismantling period. It is submitted that there can be no justification for such a blatant violation. The directions of the Hon'ble Supreme Court are clear and not open to interpretation. It is respectfully submitted that the preparatory and dismantling periods are not excluded from the 10-day timeline. The fact of the matter is that the Respondents are in violation of the clear directions of the Hon'ble Supreme Court. The attempt of the Respondents to carve out an exception to the directions of the Hon'ble Supreme Court is *mala fide* and deserves no indulgence from this Hon'ble Tribunal.
- (iv) In fact, in the *M.C. Mehta judgment*, the Hon'ble Supreme Court had also directed that no trees would be cut for holding any social functions. However, every time the Ramlila event is organized by Respondent No. 2, there is damage caused to the trees at the Park. Further, the Hon'ble Supreme Court had directed that the MCD, DDA, and NDMC shall reduce the use of parks for social functions and construct community halls for such functions. However, the authorities, including

Respondent No. 1, have not taken any steps with regard to the directions of the Hon'ble Supreme Court and, on the contrary, Respondent No. 1 is justifying its action of violating the directions of the Hon'ble Supreme Court.

D. RAMLILA EVENT IS HELD WITHOUT FOLLOWING ANY SAFETY PROTOCOLS

- (i) It is submitted that the Ramlila Event is held by Respondent No. 2 in complete ignorance of any safety protocols, endangering the lives of the residents, and creating a situation where a disaster is waiting to happen.
- (ii) As stated in the Original Application, the Park is small in size, only 0.93 acres, and it has an electric substation in a corner, and Respondent No. 2 installs the Dusshera effigies right next to it. Further, gas pipelines are passing close to the Park. The streets next to the Park are narrow, with cars of the residents parked on one side, making it impossible for a fire tender to enter in case of an emergency.
- (iii) The Ramlila event is converted into a commercial event with the construction of large temporary structures, and installation of large sound systems and food stalls, and passes are issued to the residents who have donated to the event. The effigies are installed close to the electric substation. Further, since the effigies are installed in the Park, where they are surrounded by trees and plants, burning the effigies makes it a big fire hazard and burns the nearby trees and plants every year. Every time the effigies are burned, the heat emanating from the burning is so strong that it is felt by the residents in their houses, and, further, the ashes from the burning sometimes enter

the house. The contentions of Respondent No. 2 that the site of the effigies is away from sensitive areas and that all safety precautions, including the presence of fire tenders and coordination with emergency services, are a complete lie, and Respondent No. 2 is put to strict proof of the same. On the other hand, the Applicant has to put photographs on record which show the huge effigies, the surrounding residences, the electric substation, and give a perspective of the safety hazard that the Ramlila event presents.

- (iv) Further, the permission granted by Respondent No. 1 to Respondent No. 2 to organize the Ramlila event was subject to Respondent No. 2 obtaining the requisite statutory permissions from the concerned authorities, including from the Fire Department and the Delhi Traffic Police. However, as stated in paragraph B(xi) above, Respondent No. 2 has not taken any permission from the concerned authorities. In fact, the replies received from the Fire Department and the Delhi Traffic Police to the RTIs submitted by the Applicant show that Respondent No. 2 never submitted any applications for taking permissions. Also, Respondent No. 2 has not taken any permission from Indraprastha Gas Limited for organizing the event despite its gas pipelines being close to the Park. It is evident that Respondent No. 2 is stating a white lie when it is contending that it had taken all the requisite permissions and clearly misleading this Hon'ble Tribunal. It further evinces that Respondent No. 2 has no concern for the safety of the residents but for its own interests. Also, Respondent No. 1 has miserably failed in its duty by allowing Respondent No. 2 to organize the

event without obtaining the requisite permissions, thereby putting the lives of all the nearby residents in danger.

- (v) Further, the burning of crackers and playing of loud music through huge sound systems during the Ramlila event causes constant noise pollution, even during the night. The decibel levels go much beyond the permissible limit of 55 decibels in the daytime and 45 decibels in the nighttime, which is in clear violation of the Noise Pollution (Regulation and Control) Rules, 2000. The same causes a huge nuisance to the residents of the society, particularly the older people. Copies of the photographs showing the violation of Noise Pollution (Regulation and Control) Rules, 2000, are annexed herewith as **Annexure A-8 (Colly.)**.

- (vi) It is imperative to mention here that the Applicant is not against the holding of a religious event, however, when it is held at the cost of the safety of the residents, the Applicant is obligated to raise an objection regarding the same. The Applicant has even suggested an alternate venue, the D Block Park, which is much bigger than the Park in question, and the event can be held in a much safer way at the said park. The same is in the interest of the residents as well as the Respondents. The Applicant represents the residents of D5 and D8 Blocks of Model Town. The Applicant has been in existence since 15 January 2021 as a registered society and presently has more than 200 members. The Applicant has carried out plantation drives, cleanliness drives, stray dogs' vaccination drives, and regularly organizes activities for the benefit of the residents. Apart from the aforesaid, the

Applicant employs and manages security guards of the society. Further, the Applicant regularly takes up the matters of the society with the competent authorities for the common interest of the residents, and the present case is an example of the same. Therefore, the contention of Respondent No. 2 that the Applicant does not represent the residents of D5 and D8 Blocks who use the Park is false, mischievous, and egregious. In fact, the Applicant was maintaining the Park long before the maintenance of the Park was surreptitiously handed over to Respondent No. 2 by Respondent No. 1. On the contrary, Respondent No. 2 has no standing as most of its members do not reside in the close vicinity of the Park, and have colluded with Respondent No. 1 to take over the Park. A copy of the Memorandum of Association of the Applicant is annexed herewith as **Annexure A-9**.

**REPLY TO PRELIMINARY SUBMISSIONS AND PARAWISE REJOINDER
TO PARAWISE REPLY**

1. The contents of paragraph 1 of the Reply are a matter of record and hence need no response.
2. The contents of paragraph 2 of the Reply are false and frivolous and hence denied. It is vehemently denied that the Committee has been organizing the Ramlila event in the Park since 1954. It is denied that holding the Ramlila event at the Park is deeply embedded in the social and religious fabric of the residents of the Model Town or any other area, as alleged or at all. However, it is submitted that the Applicant is not against holding of the Ramlila event or any religious event but against holding of the event at the Park, which is an Ornamental Park, and in the manner it is done by Respondent No. 2 in collusion with Respondent No. 1. It is denied that the Ramlila events have been

consistently held with the prior written permissions of Respondent No. 1, along with requisite approvals from the Fire Department, Police authorities, and other statutory agencies as per law. The purported permissions granted by Respondent No. 1 are illegal being in violation of its own policies. Further, Respondent No. 2 has not taken any permission from the statutory authorities concerned. Respondent No. 2 is misleading this Hon'ble Tribunal and should be put to strict proof of the same. It is denied that the Applicant's assertions of environmental violations are vague, unsubstantiated, and devoid of any cogent evidence, as alleged or at all. The Applicant has adduced copious and cogent evidence to support its averments that Respondent No. 2 causes environmental violations by organizing the Ramlila event every year. It is denied that holding the Ramlila event is a long-standing practice, as alleged or at all. It is denied that it is spanning over seven decades and is supported by documentary permission from 2006 onwards. The purported permissions granted by Respondent No. 1 are illegal, being contrary to its policies and the order dated 5 November 2019 of its Commissioner banning all social and religious functions at the Park. It is denied that the Ramlila event is legal and legitimate, as alleged or at all. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

3. The contents of paragraph 3 of the Reply are false, misleading, and baseless and, hence, denied. It is denied that Respondent No. 2's actions are in strict conformity with the MOU, as alleged or at all. It is vehemently denied that Respondent No. 2 has consistently adhered to all applicable environmental regulations, MCD policies, and judicial pronouncements. Respondent No. 2 has acted in blatant violation of the environmental norms, MCD policies, and the judgments of the Hon'ble Supreme Court, Hon'ble High Court of Delhi, and this Hon'ble Tribunal. It is further denied that there is no instance of non-

compliance or deviation from the terms of the MOU. Respondent No. 2 has flagrantly violated the MOU as well as the DDA Adoption Policy that it has relied upon. Neither the MOU nor the DDA Adoption Policy allows use of the Park for any purpose but its maintenance. Both policies categorically state that the adopting agency cannot use it for any functions. Despite the same, Respondent No. 2 has miserably failed to maintain the Park as an Ornamental Park and, instead, has used the Park for organizing functions. Further, holding the Ramlila event results in damage to the Park, particularly the trees and saplings. Therefore, instead of maintaining the Park, Respondent No. 2's illegal actions have damaged the Park. The photographs annexed by Respondent No. 2 as Annexure R-4 for showing maintenance of the Park are a façade, and these purported efforts have been undertaken only after filing of the Original Application in order to mislead this Hon'ble Tribunal. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

4. The contents of paragraph 4 of the Reply are false, misleading, and baseless, and, hence, denied. It is denied that the allegations made in the Original Application are baseless and factually incorrect and driven by extraneous motives, as alleged or at all. It is denied that the allegations in the Original Application are aimed at discrediting the Committee and undermining its rightfully conferred responsibilities, as alleged or at all. It is vehemently denied that the Applicant's apparent intent is to gain control of the Park under the guise of environmental concern, as alleged or at all. It is submitted that it is not the Applicant's intention but Respondent No. 2's intention to control the Park and it has gained control of the Park by surreptitiously entering into the MOU with Respondent No. 1 with the connivance of Respondent No. 2. The Applicant had made an application for adoption of the Park in February 2021. In order to help Respondent No. 2 gain control of the Park,

Respondent No. 1 discreetly entered into the MOU with Respondent No. 2 without acting on the application of the Applicant and without informing the Applicant of the decision to enter into the MOU with Respondent No. 2. The Applicant is genuinely concerned about the Park and represents the similar concerns of residents of D5 & D8 Block, Model Town, as it is the residents which are suffering due to the illegal actions of Respondent No. 2. Respondent No. 2 has been acting on its whims and fancies by using the Park as its personal property and Respondent No. 1 is turning a blind eye to the illegal actions of Respondent No. 2. It is denied that the Applicant have made vague averments in the Original Application. On the other hand, it is Respondent No. 2 who has made bald statements without any substantiation or supporting evidence. It is denied that the Park is meticulously maintained during and after the Ramlila event, as alleged or at all. The photographs fail to show any kind of maintenance purportedly carried out by Respondent No. 2. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

5. The contents of paragraph 5 of the Reply are false, frivolous, and baseless and hence denied. It is denied that the Committee has proactively undertaken maintenance of the Park in accordance with the stipulations of the MOU, as alleged or at all. It is denied that Respondent No. 2 does regular plantation drives, employs dedicated gardening staff, and maintains infrastructural upkeep. It is vehemently denied that the renewed MOU dated 24 October 2024 attests to Respondent No. 2's performance and commitment to maintaining the Park, as alleged or at all. The renewed MOU is a testament to the collusion between Respondent No. 1 and Respondent No. 2, and the apparent bias of Respondent No. 1 in favour of Respondent No. 2. In fact, Respondent No. 1 was not even renewing the MOU and informed

the Applicant that its application would not be considered till Respondent No. 2 was maintaining the Park, despite the MCD Guidelines and the MOU stating the agreement was for three years. It is denied that the MCD, after due consideration, entrusted the Committee with the Park's adoption in 2021 and reaffirmed this decision in 2024. There was no due consideration by Respondent No. 1, nor was there any application of mind. The MOU was discreetly entered into with Respondent No. 2 in order to help Respondent No. 2 gain control of the Park. It is denied that the Ramlila event has been held since 1954, as alleged or at all. It is denied that the Ramlila event is permissible in violation of MCD policies, as alleged or at all. It is vehemently denied that no environmental degradation or harm has resulted from the event. The event every year causes harm to the Park as the trees and plant saplings are damaged. Further, Respondent No. 2 does not take any safety precautions, and there are food stalls and big wooden stages installed, and there is the burning of huge effigies. It is denied that the families and relatives of the residents themselves attend the event in large numbers every year. It is denied that the Applicant does not represent all the residents. The Applicant represents the residents of D5 and D8 Blocks of Model Town. The Applicant has been in existence since 15 January 2021 as a registered society and presently has more than 200 members. On the contrary, the Committee is not a representative of the D5 & D8 Block residents. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

6. The contents of paragraph 6 of the Reply are false, misleading, and baseless, and hence denied. It is vehemently denied that the Ramlila event is confined to a period of 10 days annually, in strict consonance with the directions of the Hon'ble Supreme Court in *M.C. Mehta v. Union of India (2009) 17 SCC 683*. It is denied that the event itself is

limited to 10 days. The Respondents are trying to carve out an exception to the directions of the *M.C. Mehta judgment*, which is completely illegal and ought not to be permitted by this Hon'ble Tribunal. The fact of the matter is that the Park is occupied for 40-45 days to conduct the event, in glaring violation of the directions of the *M.C. Mehta judgment*. It shows that the Respondents have scant regard for the same. It is denied that the assertion that the Park is occupied for "one and a half months" is incorrect or misleading. It is denied that the Park is available for the general public. It is denied that the allegation that the Committee destroys trees and plants is sweeping and without merit, as alleged or at all. Holding of the Ramlila event, which admittedly is attended by a considerable number of people, leads to the destruction of the trees and plants at the Park. The Park has been categorized as an Ornamental Park, and it should be maintained as such. It is denied that temporary structures are installed and dismantled without inflicting damage to the Park or its greenery. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

7. The contents of paragraph 7 of the Reply are false, frivolous, and baseless and hence denied. It is denied that the Dusshera effigy-burning ceremony is conducted with full compliance with safety protocols and upon obtaining necessary permissions from the Fire Department and Police authorities. The same is absolutely false and a white lie. Respondent No. 2 does not follow any safety protocols, nor does it obtain any permissions from the Fire Department or the Police authorities. In fact, the roads around the Park are so narrow that a fire truck cannot even reach the Park in case of an emergency. It is denied that the Committee ensures the presence of fire tenders and maintains coordination with emergency services. It is denied that the use of diesel generators, food stalls, and sound systems is strictly within the

parameters of environmental and municipal regulations, as alleged or at all. It is denied that waste management is carried out systematically, with post-event clean up. It is denied that Respondent No. 2 ensures restoration of the Park's condition. It is denied that the Applicant's claims are hyperbolic, as alleged or at all. It is denied that the Applicant's claims regarding huge traffic jams and disregard for public safety are devoid of evidence and aimed at sensationalism, as alleged or at all. It is submitted that the Applicant's claims are genuine and the Applicant has also adduced evidence in favour of its claims. On the contrary, the claims of the Respondents are baseless, not supported by even an iota of evidence, and backed by *ad nauseam* repetition of the contention that the event is legal since it has been purportedly organized since 1954. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

8. The contents of paragraph 8 of the Reply are false, frivolous, and baseless, and hence denied. It is denied that the classification of the Park as an ornamental park does not render pre-existing cultural practices impermissible. It is denied that the Ramlila event is an established tradition predating such classification by several decades. It is denied that the Ramlila event remains permissible under the law. It is denied that the MCD Circular dated 22 August 2013 does not place an absolute embargo on holding events of a cultural or religious nature within such parks, as alleged or at all. The Circular dated 22 August 2013 specifically prohibits holding any event at the Park by virtue of it being an ornamental park. It is denied that the prior permissions have been duly obtained. Without prejudice to the fact that no event can be held at the Park, it is submitted that the prior permissions were subject to Respondent No. 2 obtaining the requisite permissions from the statutory authorities. No such permissions have been taken by Respondent No. 2 and, therefore, the holding of the Ramlila event was

completely illegal. It is denied that Respondent No. 2's use of the Park for the Ramlila event is lawful and in accordance with the Park's character and usage, as alleged or at all. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

9. The contents of paragraph 9 of the Reply are false, frivolous, and baseless, and hence denied. It is denied that Respondent No. 2 has complied with the terms of the MOU, as alleged or at all. It is vehemently denied that Respondent No. 2 has taken measures to improve the infrastructure of the Park. It is denied that the claims regarding broken footpaths, damaged benches, or unauthorized tree cutting are exaggerated or false, as alleged or at all. It is denied that no link has been established between damage to the Park and actions of Respondent No. 2. In this regard, it is submitted that since Respondent No. 2 is responsible for maintaining the Park, it is obvious that it is responsible for any damage to the Park. It is denied that Respondent No. 1's decision to renew the MOU in 2024 is a testament to its satisfaction with Respondent No. 2's stewardship. As stated above, Respondent No. 1 discreetly awarded the MOU to Respondent No. 2 and is biased towards Respondent No. 2. Renewal of the MOU after filing of the Original Application is testament to the fact that Respondent No. 1 has again colluded with Respondent No. 2 and favoured it to help it retain control of the Park. In view of the false statements made by Respondent No. 2, no rights or reservations whatsoever ought to be granted to Respondent No. 2 in the present case. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.
10. The contents of paragraph 1 of Parawise Reply are false and frivolous and hence denied. It is denied that the Ramlila event has been held in

the Park since 1954, as alleged or at all. It is denied that the event has been held with MCD permissions and approvals from relevant authorities. It is denied that Respondent No. 2 has complied with environmental and safety norms. It is denied that the Applicant's claims of irreparable damage to the Park and interference with the residents' rights are baseless. It is denied that the event is limited to 10 days. It is denied that the Park is restored post-event. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

11. The contents of paragraph 2 of Parawise Reply are false and baseless and hence denied. It is denied that the Park is for the use of the general public. The Park is a small park of 0.93 acres, and has been declared an Ornamental Park by Respondent No. 1 to be used as a green space for the D Block, Model Town. The contention of Respondent No. 2 that the Park is for the general public shows its clear intent that it is neither concerned that the Park is an ornamental park, nor concerned about the residents, nor about the condition and maintenance of the Park. Respondent No. 2 is only concerned about holding the Ramlila event. The Park is strictly for recreational purposes and the enjoyment of the residents of D Block, Model Town. It is denied that Respondent No. 2 has maintained the Park by undertaking plantation drives, employing gardeners, and ensuring upkeep as per the DDA Adoption Policy 2019. Respondent No. 2 has wrongly relied on the DDA Adoption Policy instead of the MCD Guidelines. However, even as per the DDA Adoption Policy, Respondent No. 2 is not permitted to use the Park for any purpose but for maintaining the Park. It is denied that the allegations of illegal activities and deterioration of the Park are false, as alleged or at all. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

12. The contents of paragraph 3 of Parawise Reply are false and baseless and hence denied. It is denied that the Ramlila event is held for 10 days and not one and a half months, as alleged or at all. It is denied that the Respondents are complying with the *M.C. Mehta judgment*. It is denied that the permissions cover a 30-day preparatory/dismantling period. It is denied that the same does not cause any disruption prior to or beyond the event. It is denied that the allegations of tree destruction and gate removal are false. It is denied that temporary structures are installed without permanent damage. It is denied that the RTI response cited by the Applicant confirms that the repairs were made. The RTI response is evidence of the fact that the damages, as stated by the Applicant, were actually caused by the Respondents. It is denied that the same negates the claims of violations by the Respondents. It is denied that the Superintendent's letter is being misconstrued. It is denied that no trees were damaged. It is denied that safety measures were ensured. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

13. The contents of paragraph 4 of Parawise Reply are false and baseless and hence denied. It is denied that effigy burning is conducted with the Fire Department's approval, as alleged or at all. It is denied that the effigy is burned at a safe distance from the power substation and gas pipeline. It is denied that fire tenders are on standby. The Respondents should be put to strict proof of the same. In fact, the roads are too narrow for a fire tender to enter and reach the Park. It is denied that no incidents have occurred in 70 years. Just because no incident has occurred till now does not mean there is no possibility of one occurring, considering the major safety hazards while organizing the Ramlila event, and also considering that Respondent No. 2 does not take any safety precautions to ensure that no risk is caused to the residents. It is denied that diesel generators and food stalls comply with

environmental norms, and loudspeakers adhere to the Noise Pollution Rules, 2000. It is denied that waste is managed systematically with post-event clean-up. It is denied that the allegations of traffic jams and safety violations are exaggerated, as alleged or at all. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

14. The contents of paragraph 5 of Parawise Reply are false and baseless and hence denied. It is denied that the Respondents adhere to the directions in the *M.C. Mehta judgment*. It is denied that this Hon'ble Tribunal's observations in O.A. 392/2021 are inapplicable. The same are clearly applicable to the facts and circumstances of the present case, as it is the duty and obligation of Respondent No. 1 to maintain open green spaces, as they act as lungs of the community and provide recreational spaces to them, particularly the young and the elderly. It is denied that the Applicant's reliance on the said order are misplaced or misconceived, as alleged or at all. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.
15. The contents of paragraph 6 of Parawise Reply are false and baseless and hence denied. It is not denied that Ramlila is a cultural event, however, it is denied that it is not a revenue-driven activity. In fact, Respondent No. 2 conducts it as a commercial activity. It is denied that the Ramlila event has been held since 1954, as alleged or at all. It is denied that the allegations of ignoring rules by Respondent No. 2 and causing hazardous consequences are baseless. It is denied that Respondent No. 2 ensures compliance with environmental laws, and the Park is restored post-event. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

16. The contents of paragraph 7 of Parawise Reply are false and baseless and hence denied. It is vehemently denied that the Park's ornamental status does not prohibit pre-existing cultural events like the Ramlila event. The Ramlila event is not in compliance with the MCD policies and also the directions of the Hon'ble Supreme Court. It is denied that the MCD circulars do not ban such events, as alleged or at all. It is denied that the RTI Response received by the Applicant does not negate the permissions granted. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.
17. The contents of paragraph 8 of Parawise Reply are false and baseless and hence denied. It is denied that the order dated 5 November 2019 was not implemented as a blanket ban, as alleged or at all. It was a complete ban on any functions in the Park by virtue of it being an Ornamental Park. It is not denied that Respondent No. 2 entered into the MOU with Respondent No. 1 for maintenance of the Park, however, the same was done surreptitiously, to bypass the application submitted by the Applicant for adoption of the Park and to give Respondent No. 2 control of the Park. It is denied that permissions from Respondent No. 1, the Fire Department, and Police authorities are obtained annually. In any event, such permissions have to be obtained specifically for the Ramlila event and not annually. It is denied that the grievance raised by the Applicant in its letters was addressed and permissions exist. The permissions are also illegal, being in contravention of Respondent No. 1's policies. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.
18. The contents of paragraph 9 of Parawise Reply are false and baseless and hence denied. It is denied that judicial pronouncements do not prohibit cultural events. The Park being an Ornamental Park, has to be

protected as a green space for the use and recreational activities of the residents and not for private functions of Respondent No. 2. It is denied that the Ramlila event is held for 10 days, as alleged or at all. It is denied that the Ramlila event does not curtail residents' access beyond 10 periods, as alleged or at all. Admittedly, the Park is occupied for 40-45 days, and before and after the event also, Respondent No. 2 restricts the residents from improving the condition of the Park. It is denied that the suggestion to shift the Ramlila event to D Park ignores the Ramlila's historical association with the Park, as alleged or at all. It is denied that the Ramlila event is supported by community acceptance. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

19. The contents of paragraph 10 of Parawise Reply are false and baseless and hence denied. It is denied that Respondent No. 2 has no knowledge of the application made by the Applicant to Respondent No. 1 for adoption of the Park. Respondent No. 2 had knowledge of the said application and surreptitiously entered into the MOU with Respondent No. 1 for adopting and maintaining the Park, behind the back of the Applicant. It is denied that the antecedents of the Applicant are in doubt. The Applicant has contributed immensely towards the development of the Park by planting numerous trees and plants, organizing plantation drives, and engaging gardeners to maintain the Park. In fact, the Park was being maintained by the Applicant prior to it being maintained by Respondent No. 2 by virtue of the MOU. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.
20. The contents of paragraph 11 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's antecedents are in doubt. Respondent No. 2 has no basis to state the

same and is making bald statements without any proof. It is denied that Respondent No. 1 has lawfully entered into the MOU with Respondent No. 2 in 2021 and renewed it in 2024. It is submitted that there has been no application of mind and decision-making on the part of Respondent No. 1, and the MOU has been entered with Respondent No. 2 only to favour the latter. It is vehemently denied that Respondent No. 2's adoption was transparent and lawful. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

21. The contents of paragraph 12 of Parawise Reply are false and frivolous and hence denied. It is denied that Respondent No. 2 has maintained the Park as per the terms of the MOU. Respondent No. 2 has flagrantly violated the terms of the MOU. It is denied that Respondent No. 2 has done landscaping, plantation, and undertaken upkeep of the Park. It is denied that the allegations of neglect by Respondent No. 2 are false, as alleged or at all. It is denied that the Applicant's claims of broken footpaths or gates are exaggerated, and no link to Respondent No. 2 is established. The Applicant has placed photographs on record to show broken footpaths and broken gates in the Park, and since the Park is maintained by Respondent No. 2, it is directly responsible for the same. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.
22. The contents of paragraph 13 of Parawise Reply are false and misleading and hence denied. It is denied that Respondent No. 2 complies with the MOU. The Applicant has never disputed that the Park is accessible to the public without fees. However, Respondent No. 2 organises the Ramlila event as a commercial event. Further, it is important to mention here that the Park is not for organizing events for the general public but for the recreational purposes of the residents of

D Block. It is a small park that cannot accommodate the hundreds of attendees during the Ramlila event. It provides fresh air and an open space to the residents of D Block, Model Town. It is denied that temporary structures for the Ramlila event are permitted. It is denied that they cause no permanent damage to the Park. It is denied that the 2024 RTI Reply of Respondent No. 1 does not show any fault on the part of Respondent No. 2 or that the Park is maintained properly. On the contrary, it shows the highhandedness and the blatant bias of Respondent No. 1 towards Respondent No. 2 as Respondent No. 1 was going against the terms of the MOU and allowing Respondent No. 2 to maintain the Park despite the expiry of the MOU. It is only after the filing of the Original Application by the Applicant that Respondent No. 1 renewed the MOU in order to save face. And, shockingly, even though Respondent No. 1 is primarily responsible for maintaining the Park, it stated that broken footpaths and other damage caused to the Park did not come under its purview.

23. The contents of paragraph 14 of Parawise Reply are false, frivolous, and baseless and hence denied. It is not disputed that the notice is two years old, however, the issues raised in the said notice by Respondent No. 1 still continue to persist. It is denied that the contention is without merit. It is denied that the notice dated 21 March 2022 was addressed by Respondent No. 2, as alleged or at all. It is denied that subsequent inspections confirmed compliance. There is no proof of the same. It is denied for want of knowledge that Respondent No. 2 sent a letter dated 13 April 2022 to Respondent No. 1. It is denied that the condition of the Park is satisfactory, as alleged or at all. It is denied that the renewal of the MOU or the photographs is evidence that the condition of the Park is satisfactory. It is denied that the Applicant's complaints are repetitive and lack specificity. The allegations of the Applicant are categorical and specific and backed by evidence. It is denied that the residents are not prevented from beautification efforts.

24. The contents of paragraph 15 of Parawise Reply are false, frivolous, and baseless and hence denied. It is denied that there are doubts over the genuineness of the Applicant, as alleged or at all. All the concerns raised by the Applicant are genuine and *bona fide*. The Applicant has more than two hundred members. On the contrary, Respondent No. 2 has most of its members who are non-residents of D-5 & D-8 lanes, who have colluded with Respondent No. 1 to take over the Park. It is further denied that the Applicant's apprehension of a new MOU is speculative. On the contrary, the Applicant's apprehension has been proven right, although the MOU was renewed after the filing of the Original Application.
25. The contents of paragraph 16 of Parawise Reply are false, frivolous and baseless and hence denied. It is denied that there has been a long history of Ramlila events being conducted at the Park, as alleged or at all. It is denied that the ornamental status of the Park does not prohibit the event. It is denied that the Ramlila function is for the public benefit. It is denied that it is a community event that promotes social and religious learning, as alleged or at all. Even assuming that it is a community event, the same cannot be held at the cost of the residents' safety or in violation of Respondent No. 1's policies. It is denied that the MOU with Respondent No. 2 was lawful. It is denied that the Park is maintained properly. The Applicant has raised genuine and *bona fide* issues which cannot be dismissed summarily. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.
26. The contents of paragraph 17 of Parawise Reply are false and baseless and hence denied. It is denied that Respondent No. 2 operates with meticulous adherence to all applicable environmental

regulations, as alleged or at all. It is denied that Respondent No. 2 has consistently obtained permissions from Respondent No. 1 and other statutory authorities. It is denied that the permissions are granted only after rigorous scrutiny, as alleged or at all. It is denied that the Applicant's claims are vague and sweeping. It is denied that the Applicant has failed to specify any particular violation, as alleged or at all. It is denied that Respondent No. 2 employs systematic waste management, ensures noise levels remain within permissible limits, and prevents any discharge that could contravene air or water pollution laws. It is denied that the Applicant's claims are a deliberate misrepresentation, aimed at undermining a significant cultural event. It is denied that the Ramlila event is conducted lawfully for over seven decades. It is denied that the Respondents ensure that the Park remains an ecological asset and not a victim of degradation. The illegal actions of the Respondents result in violations of all environmental laws and cause air and noise pollution. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

27. The contents of paragraph 18 of Parawise Reply are false and frivolous and hence denied. It is denied that the Applicant's contention that the Ramlila event violates the directions of the *M.C. Mehta judgment* is factually incorrect and misleading. It is denied that the Ramlila event is restricted to a 10-day period in compliance with the *M.C. Mehta judgment*. It is denied that the Applicant's reference to a 40-45 day occupation is untrue. It is denied that the Applicant is conflating the preparatory and dismantling phases, as alleged or at all. It is submitted that the Respondents cannot hide behind the excuse of preparatory and dismantling process to justify their violation of the *M.C. Mehta judgment*. It is respectfully submitted that no exceptions can be carved out. It is denied that these are ancillary periods. It is denied that there is minimal activity and such activity does not impede the

residents' access to the Park, as alleged or at all. It is denied that the Applicant has attempted to expand the scope of the Hon'ble Supreme Court's directions, as alleged or at all. The directions of the Hon'ble Supreme Court are clear and unambiguous and the Respondents are trying to carve out an exception for themselves in order to justify their illegal actions. It is denied that the preparatory work is authorised. It is denied that the contention of the Applicant regarding the violation of the *M.C. Mehta judgment* is legally untenable. It is denied that the Respondents are complying with the judicial directives, as alleged or at all. It is denied that the Applicant's claims are meritless. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

28. The contents of paragraph 19 of Parawise Reply are false, misleading, and baseless and hence denied. It is denied that the Applicant's claims are patently false and belied by documentary evidence. On the contrary, Respondent No. 2 has not adduced any documentary evidence that it obtained necessary permissions from the statutory authorities, except the permissions from Respondent No. 1, which are itself contradictory to Respondent No. 1's policies and, therefore, illegal. It is denied that the Applicant's contentions are speculative or lack any evidence, as alleged or at all. It is denied that Respondent No. 1 has a rigorous process to permit the Ramlila event. Respondent No. 1 is turning a blind eye to the violations committed by Respondent No. 2, particularly to the fact that Respondent No. 1 did not obtain the requisite permissions from the statutory authorities. It is denied that the Applicant's grievances are conjectures or unsupported by facts or aimed at creating a false narrative of administrative laxity. The Applicant does not need to conjecture when it is relying on true and correct facts. In this regard, the contents of Preliminary Submissions

may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

29. The contents of paragraph 20 of Parawise Reply are false and frivolous and hence denied. It is denied that the Applicant's claim that Respondent No. 1 is responsible for the degradation of the Park is a distortion of reality. It is surprising that Respondent No. 2 is answering for and defending the actions of Respondent No. 1. This clearly shows collusion between Respondent No. 1 and Respondent No. 2. It is denied that the Park is being maintained by Respondent No. 2 under the terms of the MOU. It is denied that Respondent No. 2 undertakes any activity for the beautification of the Park, as alleged or at all. Respondent No. 2 is repeating the same assertions again without there being even an iota of truth in them and without there being any evidence. It is denied that the Applicant's claims are unsupported by specific or credible evidence, as alleged or at all. It is denied that renewal of the MOU by Respondent No. 1 is testament to satisfactory stewardship of Respondent No. 2. It is denied that any temporary adjustments during the purported 10-day Ramlila event are swiftly reversed through post-event restoration. It is denied that the Applicant's claims regarding degradation of the Park are imagined, as alleged or at all. It is denied that the claims of the Applicant are a ploy to justify its bid for control of the Park. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.
30. The contents of paragraph 22 of Parawise Reply are false and baseless and hence denied. It is denied that the reliance of the Applicant on the order dated 1 November 2019 of the Commissioner, NDMC, as a blanket ban is misconceived. The contents of the rest of the paragraph are a matter of record and hence need no response. However, the MOU was entered into with Respondent No. 2 with the

intent of helping it gain control of the Park and run the Park as per its whims and fancies. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

31. The contents of paragraph 23 of Parawise Reply are false and frivolous and hence denied. It is denied that the Applicant's claim that MCD policies prohibit cultural events in ornamental parks is not correct. Respondent No. 2 has no basis to contend the same. MCD policies are clear that an ornamental park cannot be given for any function. It is denied that the permissions granted by Respondent No. 1 to Respondent No. 2 ensure compliance with MCD policies, as alleged or at all. The said permissions are contrary to the MCD policies and, thus, *non est* in law. It is denied that the Applicant's assertion that the Ramlila event is in violation of the MCD Policy is a distortion. It is submitted that the illegal act of granting permissions, despite a prohibition on social events in an ornamental park, does not make the Ramlila event legal. It is denied that Respondent No. 1 has any discretion of allowing events at the Park. It is denied that Respondent No. 1's purported discretion reflects a pragmatic approach, as alleged or at all. It is denied that the Ramlila event has a negligible impact on the Park's ecology. It is denied that the Applicant's ground is devoid of merit, as alleged or at all. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

32. The contents of paragraph 24 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's allegation that the MCD illegally grants permission for the Ramleela is unfounded and contradicted by evidence. It is denied that the Committee secures permissions from the MCD, Fire Department, and Police annually, following established procedures. It is denied that these permissions are issued after due diligence, ensuring compliance with MCD policies

and environmental regulations. It is denied that the Applicant's claim of illegality is speculative, lacking any evidence to challenge the validity of the approvals. It is denied that the MCD's consistent authorization of the Ramleela over decades underscores its alignment with municipal policies, which accommodate cultural events under regulated conditions. It is denied that the Applicant's attempt to question the permissions is an unsubstantiated attack on the MCD's administrative prerogative and the Committee's lawful conduct. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

33. The contents of paragraph 25 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's assertion that the MoU prohibits cultural events in the Park is a misinterpretation of its terms. It is denied that the MoU dated 25 August 2021, renewed on 24.10.2024, governs the Committee's maintenance responsibilities and does not preclude cultural events when authorized by the MCD. It is denied that the Ramleela is conducted with explicit permissions, aligning with the MoU's overarching goal of public access and Park preservation. It is denied that the Applicant's narrow reading of the MoU ignores the MCD's authority to permit events that enhance community welfare, provided environmental norms are met. It is denied that the Committee's compliance with both the MoU and event-specific approvals ensures that the Ramleela is a legitimate activity, rendering the Applicant's ground untenable. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.
34. The contents of paragraph 26 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's claim that the Ramleela is held without permissions from the MCD, Fire Department, Traffic Police, or Delhi Police is demonstrably false. It is denied that the Committee meticulously obtains all requisite approvals

annually, as evidenced by permissions spanning 2006 to 2024. It is denied that these approvals cover fire safety, public order, traffic management, and environmental compliance, ensuring a holistic regulatory framework. It is denied that the Applicant's assertion is a baseless assumption, unsupported by any counter-evidence. It is denied that the MCD's rigorous permitting process, coupled with the Committee's diligence, guarantees that the Ramleela adheres to all statutory requirements. It is denied that the Applicant's attempt to cast doubt on these permissions is a frivolous challenge to an established and transparent process. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

35. The contents of paragraph 27 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's claim that the Ramleela poses a "grave danger" due to effigy-burning near a power substation and gas pipeline is false and unsupported. It is denied that the Dussehra effigies are placed far away from the power station. It is denied that the Dussehra effigy-burning is conducted with stringent safety protocols, under Fire Department supervision, and with NOCs ensuring compliance. It is denied that the site is carefully selected to avoid proximity to sensitive infrastructure, and fire tenders are stationed on-site to mitigate any risk. It is denied that in over 70 years, no incident has occurred, underscoring the efficacy of these measures. It is denied that the Applicant's grievances are speculative, as alleged or at all. It is denied that the Applicant's scenario of a mishap ignores the Committee's safety record and the MCD's oversight. Respondent No. 2 does not have a safety record. The event is being conducted arbitrarily and whimsically, and is a huge risk to the lives of the residents. It is denied that the presence of parked vehicles or a narrow road is irrelevant. It is denied that traffic and access are managed by the Police. It is denied that the Applicant's ground is a hyperbolic attempt to sensationalize a well-regulated cultural practice.

In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

36. The contents of paragraph 28 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's allegations of tree destruction, gate removal, and indiscriminate waste disposal are categorically false. It is denied that the Committee uses temporary structures for the Ramleela, which are installed and dismantled without causing permanent damage to the Park's greenery or infrastructure. It is denied that no trees or plants are harmed, and any minor adjustments are restored post-event. It is denied that waste management is systematic, with dedicated cleanup ensuring the Park's pristine condition. It is denied that the Applicant's claims of environmental neglect are contradicted by photographic evidence of the Park's upkeep. It is denied that the presence of a power substation and gas pipeline is irrelevant, as safety measures, including Fire Department approvals, eliminate any risk. It is denied that the Applicant's portrayal of the Ramleela as an ecological disaster is a baseless exaggeration, designed to mislead rather than inform. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

37. The contents of paragraph 29 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's assertion that the Ramleela curtails the Park's role as a recreational "lung" for residents is misconceived. It is denied that the event lasts only 10 days, leaving the Park accessible for recreational use for the remaining 355 days of the year. It is denied that post-event restoration ensures that the Park's ecological and aesthetic functions are fully preserved. It is denied that the Applicant's claim that residents are deprived of recreational space is an overstatement. It is denied that the temporary use for a purportedly culturally significant event does not undermine

Park's primary purpose. It is denied that judicial pronouncements, including the *M.C. Mehta judgment*, permit such limited use, recognizing the balance between recreation and community traditions. It is denied that the Applicant's attempt to elevate a brief, regulated event into a permanent disruption is legally and factually untenable. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

38. The contents of paragraph 30 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's suggestion that the Ramleela should be shifted to D Park, a larger venue 300 meters away, is either mandated or justified. It is denied that Jawahar Park has hosted the Ramleela since 1954 in the Park, a tradition deeply rooted in the community's cultural identity, with continuous MCD approvals. It is denied that the choice of venue is a matter of administrative discretion, and the MCD's decision to permit the event at Jawahar Park rejects its suitability and historical significance. It is denied that D Park's size or accessibility does not renders Jawahar Park's use unlawful or inappropriate. It is denied that the Applicant's proposal ignores the Ramlila's purported association with the Park and the Committee's purported compliance with environmental and safety norms. It is denied that forcing a shift would disrupt a cherished tradition without any legal or practical basis, making the Applicant's ground meritless. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

39. The contents of paragraph 31 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's claim that the MCD acted arbitrarily by executing the MoU with the Committee without considering their adoption application is baseless. It is denied that the MoU dated 25.08.2021, renewed on 24 October 2024, was a lawful exercise of MCD's powers, based on the Committee's proven

track record of maintaining the Park. It is denied that the Applicant's allegation of surreptitious conduct is baseless, as the MoU process followed MCD's adoption guidelines. It is denied that the Committee's maintenance efforts, including landscaping and waste management, justified the MCD's decision. It is denied that the Applicant's attempt to impugn the MoU as unlawful is an overreach, lacking evidence of procedural irregularity or bias. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

40. The contents of paragraph 32 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's invocation of natural justice principles to challenge the MCD's rejection of their adoption application is legally unsound. It is denied that the MCD's adoption process is governed by its guidelines, which do not mandate a formal hearing or reasoned order for every applicant. It is denied that the MCD lawfully agreed to the Committee's MoU based on merit and performance. It is denied that administrative decisions of this nature do not require judicialized procedures unless explicitly prescribed. It is denied that the Applicant's claim of unfairness is speculative, as alleged or at all. It is denied that the Applicant's assertion to elevate a routine administrative choice into a violation of natural justice is a misapplication of legal principles. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

41. The contents of paragraph 33 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's allegation that the MCD failed to act on the Committee's poor maintenance is false. It is denied that the notice dated 21 March 2022, cited by the Applicant, was routine communication addressed by the Committee, with subsequent inspections confirming compliance. It is denied that the Park's condition is satisfactory, as alleged or at all. It is denied that the Applicant's reliance on the notice is selective, as alleged or at all. It

is denied that the Applicant's repetitive complaints lack specificity and fail to establish any systemic neglect. It is denied that the MCD's continued trust in the Committee refutes the Applicant's narrative of inaction, rendering this ground baseless. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

42. The contents of paragraph 34 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's demand for cancellation of the MoU is premised on a false premise of non-compliance, which is contradicted by evidence. It is denied that the Committee adheres to the MoU's terms, maintaining the Park through landscaping, plantation, and infrastructural upkeep. It is denied that the 2022 notice was resolved, and no subsequent violations have been recorded. It is denied that the MCD's decision to renew the MoU in 2024 reflects satisfaction with the Committee's performance, negating any basis for termination. It is denied that the Applicant's call for cancellation is a disguised attempt to usurp control of the Park, unsupported by any actionable evidence of mismanagement. It is denied that the Committee complies with the MoU's objectives, as alleged or at all. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

43. The contents of paragraph 35 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's claim that the Committee violates environmental laws and judicial directions is a bald assertion, unsupported by specifics. It is denied that the Committee complies with all environmental regulations, including the Air Act, Water Act, and Noise Rules, as well as judicial pronouncements like the *M.C. Mehta judgment*. It is denied that the MoU's environmental stipulations are adhered to, with regular maintenance ensuring the Park's ecological integrity. It is denied that the Applicant's reference to non-compliance fails to identify any

concrete violation, rendering it legally deficient. It is denied that the Committee's purported 70-year record of conducting the Ramleela without environmental harm underscores its commitment to legal and judicial standards, making this ground frivolous. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

44. The contents of paragraph 36 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's apprehension that the Ramleela will create a "huge nuisance" is speculative and contradicted by its lawful execution. It is denied that the event is conducted with comprehensive permissions, limiting its duration to 10 days and ensuring compliance with environmental and safety norms. It is denied that the Committee's waste management, noise control, and safety measures prevent any nuisance. It is denied that the Applicant's portrayal of the event as disruptive ignores its cultural significance and community acceptance over decades. It is denied that the MCD's continued approvals reflect the absence of any public detriment. It is denied that the Applicant's ground is a preemptive attempt to halt a legitimate tradition, as alleged or at all. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

45. The contents of paragraph 37 of Parawise Reply are false and baseless and hence denied. It is denied that the Applicant's fear that the MCD may renew the MoU with the Committee is moot, as the renewal was executed on 24.10.2024. It is denied that the decision was based on the Committee's satisfactory performance, including maintenance and compliance with the MoU's terms. It is denied that the Applicant's claim of exclusion is speculative, ignoring the transparent and merit-based process that reaffirmed the Committee's role. It is denied that the renewal reflects administrative prudence, not

bias. In this regard, the contents of Preliminary Submissions may be deemed to be incorporated herein, and the same are not being repeated for the sake of brevity.

46. The contents of paragraph 38 of Parawise Reply need no response.
47. The contents of paragraph 39 of Parawise Reply are denied. It is denied that the Original Application is liable to be dismissed, as alleged or at all. It is denied that the Original Application is devoid of merit and based on unsubstantiated allegations. In view of the false allegations and statements of Respondent No. 2, the prayers sought by Respondent No. 2 deserve no indulgence and ought to be rejected at the threshold.



APPLICANT

FILED THROUGH:



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Dated:18.08.2025
Place: New Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH NEW DELHI**

ORIGINAL APPLICATION NO. 1150 OF 2024

IN THE MATTER OF:

**D5 & D8 RESIDENTS' WELFARE ASSOCIATION,
MODEL TOWN, NEW DELHI**

...APPLICANT

VS.

**HORTICULTURE DEPARTMENT OF MUNICIPAL CORPORATION DELHI,
KESHAVPURAM ZONE**

....RESPONDENT

AFFIDAVIT

I, Gurdeep Singh, S/o Shri Swran Singh, aged about 70 years, R/o D-5/9, 2nd Floor, Model Town-III, Delhi – 110 009, do hereby solemnly affirm and declare as under:

1. That I am the authorised representative of the Applicant and am conversant with the facts and circumstances of the present case. I am therefore competent to swear this affidavit.
2. That the accompanying Rejoinder has been drafted and filed on instructions of the Applicant and the facts mentioned therein are based on the records obtained by the Applicant and information believed by the Deponent to be true and on the legal advice received.



DEPONENT

VERIFICATION:

I, Gurdeep Singh, the above-named Deponent do hereby verify that the contents of my above Affidavit are true and correct to my knowledge and belief and are based on the records available to me. No part of the Affidavit is false, and nothing material has been concealed therefrom.

Verified at New Delhi on this the 18 day of August 2025.



DEPONENT



ATTESTED

NOTARY PUBLIC

Parks Keshavpuram Zone

SI No.	Park ID	Park Name	Ward ID	Park Size	Rent for Booking	Security Deposit	Select
1	FS/CLZ/69/2	Park near Physical Centre	78		12000.00	5000.00	<input type="radio"/>
2	FS/CLZ/62/1	Tikona Park in Mahendra park	70		6000.00	5000.00	<input type="radio"/>
3	FS/CLZ/67/2	Park in C-8 block (Nr. Mother Dairy Booth)C-8	75		6000.00	5000.00	<input type="radio"/>
4	FS/CLZ/67/1	Park in C-4 block (Ramlila Wala)C-4	75		30000.00	10000.00	<input type="radio"/>
5	FS/RZ/53/2	Park in CP block (Nr. DDA Market)CP block	64		12000.00	5000.00	<input type="radio"/>
6	FS/CLZ/66/1	Park in B 4 block near desu officeB-4/39	73		6000.00	5000.00	<input type="radio"/>
7	FS/CLZ/64/1	Park opp g 280 to 237 ram leela wala parkopp g 280 to 237	69		6000.00	5000.00	<input type="radio"/>
8	FS/RZ/53/3	Park in LP blockLP block	64		6000.00	5000.00	<input type="radio"/>
9	FS/RZ/53/1	Park in HP block opp sachedeva public schoolHP block	64		30000.00	10000.00	<input type="radio"/>
10	FS/RZ/56/1	Park in between BK-1 & BK-2 park westBK-1 & BK-2	63		6000.00	5000.00	<input type="radio"/>
11	FS/CLZ/72/1	Store wala park	77		6000.00	5000.00	<input type="radio"/>
12	FS/CLZ/69/1	28 block Tikona park28 block	78		6000.00	5000.00	<input type="radio"/>
13	FS/RZ/41/1	Park opp hno 210opp hno 210	0		12000.00	5000.00	<input type="radio"/>
14	FS/RZ/54/1	Park inPL-LU BLOCK(PART-I)	61		30000.00	10000.00	<input type="radio"/>
15	FS/RZ/54/2	Park inPU-LU BLOCK(PART-II)	61		30000.00	10000.00	<input type="radio"/>

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750

SUPREME COURT CASES

(2008) 2 SCC

of 1981 was justified in filing the suit against the present defendants. This was not even the case pleaded. On the other hand what was pleaded was adverse possession alone. This is apart from the fact that all through the plaintiff claimed a title and ownership from Doraiswamy, who according to the plaintiff, had both ownership and the title to the suit property. The term possessory title was not even whispered anywhere. We are, therefore, unable to accept the contention of the learned counsel on behalf of the respondent. a

21. Once the suit of Muthuswami Gounder fails, then the other suit filed by Dharmarajan being OS No. 280 of 1982 in respect of the eastern half portion of the suit property must succeed. The appellate court has rightly granted the declaration in that suit and has also restricted the relief only to the declaration since Dharmarajan and the other defendants had not terminated or revoked the licence of Doraiswamy or his wife Valliammal or daughter Palaniammal. The first appellate court had also correctly held that appellant in AS No. 10 of 1995 in OS No. 280 of 1982 had established title of his vendors and further that his vendors has passed a valid title to him with respect to the suit property under Exhibits B-12 and B-13. We also accept the judgment of the appellate court that Dharmarajan and other defendants were not entitled to the injunction prayed for. b

22. In the result the appeals succeed with costs. The judgment of the High Court is set aside and that of the first appellate court is restored. c d

(2008) 2 Supreme Court Cases 750

(BEFORE C.K. THAKKER AND J.M. PANCHAL, JJ.)

UNION OF INDIA AND ANOTHER . . . Appellants; e

Versus

NARENDRA SINGH . . . Respondent.

Civil Appeal No. 5865 of 2007[†], decided on December 13, 2007

A. Service Law — Promotion — Erroneous promotion — Regularisation — Held, Administrative Tribunal could not direct that power of relaxation available in statutory recruitment rules must be exercised to regularise erroneous promotion — Administrative Tribunals Act, 1985 — S. 14(1) — Jurisdiction, power and authority of the Tribunal f

B. Service Law — Promotion — Erroneous promotion — Cancellation — Show-cause notice — Held, ought to be given to employee concerned — Fundamental Rules, 1922 — FR 31-A — Administrative Law — Natural justice — Audi alteram partem g

C. Service Law — Service rules — Relaxation of — Power of relaxation available “with respect to any class or category of persons” — Authority concerned refusing to invoke power in an individual case to regularise erroneous promotion which was made by overlooking condition of eligibility

[†] Arising out of SLP (C) No. 2041 of 2005. From the Judgment and Order dated 26-8-2004 of the High Court of Judicature of Madhya Pradesh at Jabalpur Bench, Indore in Writ Petition No. 1329 of 2000 h

prescribed in Rules — Stand of the authority upheld — Administrative Tribunal’s direction that this was a fit case where relaxation clause ought to be invoked, held, not proper — Indian Audit and Accounts Department (Senior Accountant) Recruitment Rules, 1988 — Rr. 3 and 5, Schedule, Columns 11 and 12 — Constitution of India, Art. 148(5)

D. Administrative Law — Administrative review — Mistaken decision — Held, can always be corrected by following process of law (show cause) — Plea rejected that erroneous promotion could not be rectified

Criticising the approach of the Tribunal as upheld by the High Court, the Supreme Court

Held :

Reasons recorded by the Deputy Accountant General were in conformity with the statutory rules. The Tribunal, therefore, should not have interfered with the well-reasoned order passed by the Deputy Accountant General. It cannot be said that the authorities did not carry out the order in letter and spirit. It is also not possible to agree with the Tribunal that the reasons recorded for rejection of respondent’s case were not “valid”. On the contrary, the Deputy Accountant General was right in keeping in view relevant considerations, such as, the power should be exercised with respect to any “class or category of persons”, normally there should not be any relaxation in Recruitment Rules unless the eligible and qualified candidates are not available; relaxation should not be exercised to perpetuate a mistake; a large number of Accountants who were eligible and qualified but they could not be appointed only because of non-availability of sufficient vacancies. (Paras 24 and 25)

Keshav Chandra Joshi v. Union of India, 1992 Supp (1) SCC 272 : 1993 SCC (L&S) 694 : (1993) 24 ATC 545, *relied on*

Plain reading of the Tribunal’s direction leaves no room for doubt that the Tribunal “concluded” that it was a “fit case for according relaxation under Rule 5”. Moreover, the Tribunal directed the appellants to promote the respondent, if found suitable, within the stipulated period. The Tribunal further observed that if there was no vacancy, the respondent should be promoted when the vacancy was to become available. There is, therefore, no doubt that the question as to relaxation of rule was “finally decided” and the directions were to be carried out by the authorities on the basis of such conclusion. It, therefore, cannot be said that direction was limited to “consideration” of the case of the respondent and to take an appropriate decision in accordance with law. (Para 31)

It is true that the mistake was of the Department and the respondent was promoted though he was not eligible and qualified. But the respondent’s submission cannot be countenanced that mistake cannot be corrected. Mistakes are mistakes and they can always be corrected by following due process of law. (Para 32)

ICAR v. T.K. Suryanarayan, (1997) 6 SCC 766, *relied on*

It is true that before such an action is taken and a person is actually reverted, he must be given an opportunity to show cause. He may be able to satisfy the authorities that there was no such mistake. But even otherwise, principles of natural justice and fair play require giving of such opportunity to him. In the instant case, notice was issued to the respondent employee under Fundamental Rules 31-A, his explanation was sought and thereafter the order was passed. The said order was just, proper and in consonance with law and it ought not have been set aside by the Tribunal or by the High Court. (Para 34)

752

SUPREME COURT CASES

(2008) 2 SCC

E. Service Law — Promotion — Erroneous promotion — Saving of — Erroneous promotion continuing for more than seventeen years — Allowed to continue till respondents retirement which was to take place after a few days — However, pensionary benefit to be calculated with reference pay of the lower post — Excess salary already paid also directed not to be recovered — Pension a

(Paras 35 and 36)

Appeal partly allowed

K-M/37102/CL

Advocates who appeared in this case :

T.S. Doabia, Senior Advocate (Vikas Sharma and Ms Anil Katiyar, Advocates) for the Appellants; b

Chinmoy Khaladkar and Vimal Chandra S. Dave, Advocates, for the Respondent.

Chronological list of cases cited**on page(s)**

1. (1997) 6 SCC 766, *ICAR v. T.K. Suryanarayan* 757e-f
2. 1992 Supp (1) SCC 272 : 1993 SCC (L&S) 694 : (1993) 24 ATC 545, *Keshav Chandra Joshi v. Union of India* 756c-d, 756f-g

The Judgment of the Court was delivered by c**C.K. THAKKER, J.**— Leave granted.

2. The present appeal is directed against the order dated 12-5-2000 passed by the Central Administrative Tribunal, Jabalpur, Camp Indore (“Tribunal”, for short) in Original Application No. 76 of 1997 and confirmed by the Division Bench of the High Court of Madhya Pradesh, Jabalpur *d* (Indore Bench) on 26-8-2004 in Writ Petition No. 1329 of 2000.

3. Brief facts of the case are that the respondent herein was working as Accountant in the Office of the Accountant General, Madhya Pradesh, Branch Office Bhopal. By an order dated 1-1-1990 he was mistakenly promoted as Senior Accountant (Functional). After about four years, the Department realised that the promotion given to the respondent was erroneous and he was not eligible to be promoted. The mistake was, *e* therefore, sought to be corrected.

4. A notice under Rule 31-A of the Fundamental Rules, 1922 was issued to the respondent informing him that he could not have been promoted as Senior Accountant as he had not passed departmental examination of Accountants as required by law. He was, hence, asked to show cause why the promotion given to him erroneously should not be cancelled. By a reply *f* dated 16-2-1994 the respondent contended that he was eligible and qualified for getting promotion and accordingly he was promoted. He also asserted that he was performing his functions and discharging his duties efficiently and there was no occasion to revert him. According to him, there was no need to clear departmental examination for Accountants and the notice was *g* required to be discharged.

5. After considering the reply submitted by the respondent, the Principal Accountant General, vide his order dated 29-3-1994, cancelled the promotion. The respondent challenged the cancellation of promotion by *h* filing Original Application No. 275 of 1994 in the Tribunal. The Tribunal, on

12-3-1996, allowed the petition and directed the authorities to reconsider the case of the respondent.

a **6.** In compliance with the order passed by the Tribunal, the appellant considered the case of the respondent and rejected his prayer. Accordingly, by an order dated 24-6-1996, the promotion was cancelled.

b **7.** The respondent again challenged the order of reversion by approaching the Tribunal and the Tribunal allowed the petition. The order was confirmed by the High Court. The said decision is challenged in the present appeal by the Union of India and the Accountant General.

8. Notice was issued and keeping in view the fact that the respondent was due to retire shortly, the Registry was directed to place the matter for final hearing which was placed before us on 5-12-2007.

9. We have heard learned counsel for the parties.

c **10.** Learned counsel for the appellants submitted that the action taken by the appellant could not be said to be illegal, unlawful or otherwise improper. He stated that the respondent was not qualified to be promoted as Senior Accountant as he had not passed the relevant examination required by law. It was due to mistake on the part of the Department that he was promoted in spite of his ineligibility. The said mistake was, therefore, corrected after issuing notice calling upon the respondent to show cause why the mistake should not be corrected.

d **11.** It was submitted that as per the direction issued by the Tribunal, the case of the respondent was considered and the Department rejected the prayer. The action of the appellant which was in consonance with law could not have been set aside by the Tribunal. By interfering with the said action, the Tribunal had committed an error of law. The High Court confirmed that order. Both the orders, therefore, are liable to be set aside.

e **12.** Learned counsel for the respondent, on the other hand, supported the order passed by the Tribunal and affirmed by the High Court. According to him, the respondent was not required to pass any examination. He had sufficient experience. All those factors were considered by the Department when he was promoted as Senior Accountant. There is no allegation that the respondent had concealed facts or by playing fraud, got the promotion. Even if it is assumed that there was mistake on the part of the Department, the respondent should not suffer.

f **13.** It was further urged that in earlier litigation, directions were issued by the Tribunal, but they had not been complied with. The Comptroller and Auditor General of India ought to have relaxed the condition as to passing of examination. Moreover, the Tribunal had merely directed to consider the case of the respondent and there was no illegality in it. The High Court, therefore, rightly did not interfere with the said order.

g **14.** Finally, it was submitted that the respondent was promoted on 1-1-1990 and thus he has completed about seventeen years of service on the promoted post. He will be retiring within a few days i.e. after the office hours of 31-12-2007. Hence, even if this Court holds that his promotion was not

h

754

SUPREME COURT CASES

(2008) 2 SCC

strictly legal, the Court may not interfere with the said order and allow him to continue on that post for few days more.

15. Having heard learned counsel for the parties, in our opinion, the appeal deserves to be partly allowed. So far as the promotion of the respondent is concerned, it is not in dispute that he was promoted as Senior Accountant (Functional) on 1-1-1990. It is not the allegation of the appellant that the respondent had obtained such promotion by concealing facts or by playing fraud. a

16. At the same time, however, in our opinion, the learned counsel for the appellants is right in submitting that the respondent was not eligible and qualified to be promoted to the post of Senior Accountant. In this connection, he invited our attention to Article 148 of the Constitution. Clause (1) of the said Article declares that there shall be a Comptroller and Auditor General of India who shall be appointed by the President by warrant under his hand and seal. Clause (5) deals with staff of Comptroller and Auditor General of India and reads thus: b

“148. (5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor General shall be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor General.” c

17. In exercise of the power under Clause (5) of Article 148, the President, after consultation with the Comptroller and Auditor General of India, framed rules known as “the Indian Audit and Accounts Department (Senior Accountant) Recruitment Rules, 1988” (hereinafter referred to as “the Rules”). Rule 3 provides for method of recruitment, age-limit, qualifications, etc. of Senior Accountants and reads as under: d

“3. *Method of recruitment, age-limit, qualifications, etc.*—The method of recruitment, age-limit, qualifications and other matters relating to the said post shall be as specified in Columns 5 to 14 of the said Schedule.” e

18. The schedule to the Rule expressly states that a person may be appointed as Senior Accountant “by promotion, failing which by transfer on deputation” (Column 11). Column 12 is material and relevant part reads thus: f

“12. In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made:

Promotion: On seniority basis, subject to rejection or unfit from among Accountants in the grade of Rs 1200-2040, with three years’ regular service in the grade *having passed the departmental examination for Accountants.*” g

(emphasis supplied)

19. Bare reading of Rule 3 with Schedule thereof makes certain things clear. Firstly, the Rules are framed by the President of India in consultation with the Comptroller and Auditor General of India in exercise of power under Clause (5) of Article 148 of the Constitution. The Rules are thus statutory in nature. Secondly, the Rules provide for mode of appointment to the post of Senior Accountant by promotion, failing which by transfer on deputation. Thirdly, promotion is based on “seniority” subject to rejection or unfit from h

UNION OF INDIA v. NARENDRA SINGH (*Thakker, J.*)

755

a among Accountants, generally known as “negative test”. Fourthly, an Accountant must have three years’ regular service. Finally, such Accountant must have passed departmental examination for Accountants.

20. It is not the case of the respondent that he had passed the departmental examination for Accountants. It is, thus clear that the respondent was not qualified for promotion to the post of Senior Accountant under the Rules.

b 21. The respondent, however, urged that even if it is held that passing of departmental examination was necessary, the authorities ought to have relaxed the rule by exercising power under Rule 5. A grievance was also made that the direction of the Tribunal in earlier case had not been complied with and the prayer of the respondent was rejected mechanically.

c 22. We are unable to agree with the submission of the learned counsel. Rule 5 confers discretionary power on the Comptroller and Auditor General of India to relax the provisions of the Rules. It is relevant and may be reproduced:

“5. *Power to relax.*—Where the Comptroller and Auditor General of India is of the opinion that it is expedient or necessary so to do, he may by order and for reasons to be recorded in writing, relax any of the provisions of these Rules with respect to any class or category of persons.”

d 23. Reading of the order dated 24-6-1996, passed by the Deputy Accountant General (Administration), Gwalior, makes it clear that the Deputy Accountant General considered Rule 5 and observed that he did not find any valid reason/ground to relax the Recruitment Rules in view of the facts mentioned in the order. It was inter alia observed that Rule 5 conferred power on the Comptroller and Auditor General of India to relax the Rules, if e he is of the opinion that it is expedient or necessary so to do by recording reasons in writing. But he proceeded to state that such power should be exercised “with respect to any class or category of persons”. Normally, the power should be invoked if eligible candidates are not available for promotion or for similar valid grounds/reasons. The power, however, should not be exercised to perpetuate a mistake. Since the respondent did not fulfil f the condition of the Recruitment Rules and a large number of Accountants who had passed departmental examination were available and awaiting promotion, it would be against their interests to deprive them of promotion and to continue the respondent who had not passed the examination.

g 24. In our considered opinion, the reasons recorded by the Deputy Accountant General were in conformity with the statutory rules. The Tribunal, therefore, should not have interfered with the well-reasoned order passed by the Deputy Accountant General. The Tribunal, while dealing with this aspect, observed:

h “The reason given for not according relaxation to the applicant is that the power to relax is generally to be invoked only in respect of class or category of persons and is resorted to only in cases when eligible persons are not available for consideration for promotion or for any valid reasons/grounds and the power is not conferred to perpetuate a mistake.

756

SUPREME COURT CASES

(2008) 2 SCC

We do not think that the grounds taken for rejection of the case of the applicant are valid. This court has specifically directed with certain observation to consider the case of the applicant for relaxation under the powers vested under Rule 5 and the respondents were duty-bound to consider it in accordance with the order of this Tribunal.” a

25. We are unable to persuade ourselves as to how the authorities did not carry out the order in letter and spirit as contended by the learned counsel for the respondent. We are also unable to agree with the Tribunal that the reasons recorded for rejection of the case of the respondent were not “valid”. On the contrary, in our judgment, the Deputy Accountant General was right in keeping in view relevant considerations, such as, the power should be exercised with respect to any “class or category of persons”, normally there should not be any relaxation in Recruitment Rules unless the eligible and qualified candidates are not available; relaxation should not be exercised to perpetuate a mistake; a large number of Accountants who are eligible and qualified but they could not be appointed only because of non-availability of sufficient vacancies. b c

26. In this connection, it may be profitable to refer to a decision of this Court in *Keshav Chandra Joshi v. Union of India*¹ where this Court was called upon to consider the ambit and scope of relaxation clause in the Recruitment Rules. Rule 27 of the U.P. Forest Service Rules, 1952 invested in the Government power of relaxation which reads thus: d

“27. Where the Governor is satisfied that the operation of any rule regarding ‘the conditions of service’ of the members of the service causes undue hardship in any particular case, he may, in consultation with the Commission, notwithstanding anything contained in the rules applicable to the case, by order dispense with or relax the requirements of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.” e

27. The Court held that such power should be exercised to the extent as may be necessary to ensure satisfactory working or removing hardship in just and equitable manner but the Government cannot consciously and deliberately deviate from the Rules exercising the power of relaxation. f

28. Interpreting the relaxation clause and the power of the Governor, this Court observed: (*Keshav Chandra case*¹, SCC p. 289, para 33)

“33. ... Satisfaction of the Governor that the operation of the rules regarding the conditions of service would cause undue hardship in a particular case or cases and the need to relieve hardship and to cause just and equitable results is a precondition. Even otherwise the court cannot substitute its satisfaction for the satisfaction of the Governor in exercise of the power of deemed relaxation.” g

29. The counsel for the respondent, no doubt, submitted that in the impugned order, the Tribunal merely directed the authorities to consider the case of the respondent for relaxation of Rules and no grievance could be made by the appellants. h

1 1992 Supp (1) SCC 272 : 1993 SCC (L&S) 694 : (1993) 24 ATC 545

30. We are unable to uphold the contention. Para 6 of the order issued by the Tribunal is explicitly clear. It reads thus:

- a* “6. In view of aforesaid discussions, *we feel that this is fit case for according relaxation under Rule 5.* Accordingly, this OA is disposed of with a direction to the respondents to consider the case of the applicant for promotion to the post of Senior Accountant by relaxing the condition of qualifying in the examination and if found suitable, promote him to the post of Senior Accountant within a period of three months from the date of receipt of this order, subject to availability of vacancy. In case the said vacancy is not available, he shall be promoted immediately after the vacancy is made available. However, in case there are persons who are senior to the applicant and who have already qualified the examination of Senior Accountant, the case of the applicant shall be considered immediately after the promotion of such persons or such persons are promoted.”
- c* (emphasis supplied)

- 31.** Plain reading of the above direction leaves no room for doubt that the Tribunal “concluded” that it was a “fit case for according relaxation under Rule 5”. Moreover, the Tribunal directed the appellants to promote the respondent, if found suitable, within the stipulated period. The Tribunal further stated that if there is no vacancy, the respondent should be promoted after the vacancy is available. There is, therefore, no doubt that the question as to relaxation of rule was “finally decided” and the directions were to be carried out by the authorities on the basis of such conclusion. It, therefore, cannot be said that direction was limited to “consideration” of the case of the respondent and to take an appropriate decision in accordance with law.
- d*

- 32.** It is true that the mistake was of the Department and the respondent was promoted though he was not eligible and qualified. But, we cannot countenance the submission of the respondent that the mistake cannot be corrected. Mistakes are mistakes and they can always be corrected by following due process of law. In *ICAR v. T.K. Suryanarayan*² it was held that if erroneous promotion is given by wrongly interpreting the rules, the employer cannot be prevented from applying the rules rightly and in correcting the mistake. It may cause hardship to the employees but a court of law cannot ignore statutory rules.
- e*
- f*

- 33.** As observed by us, statutory rules provide for passing of departmental examination and the authorities were right in not relaxing the said condition and no fault can be found with the authorities in insisting for the requirement of law. In the circumstances, the action of the authorities of correcting the mistake cannot be faulted.
- g*

- 34.** True it is that before such an action is taken and a person is actually reverted, he must be given an opportunity to show cause why the proposed action should not be taken. He may be able to satisfy the authorities that there was no such mistake. But even otherwise, principles of natural justice and fair play require giving of such opportunity to him. But as observed earlier, in the instant case, in accordance with Rule 31-A of the Fundamental Rules,
- h*

758

SUPREME COURT CASES

(2008) 2 SCC

notice was issued to the respondent employee, explanation was sought and thereafter the order was passed. The said order, in our considered view, was just, proper and in consonance with law and it ought not to have been set aside by the Tribunal or by the High Court. To that extent, therefore, the orders impugned in this appeal deserve to be set aside. a

35. The last prayer on behalf of the respondent, however, needs to be sympathetically considered. The respondent is holding the post of Senior Accountant (Functional) since last seventeen years. He is on the verge of retirement, so much so that only few days have remained. He will be reaching the age of superannuation by the end of this month i.e. 31-12-2007. In our view, therefore, it would not be appropriate now to revert the respondent to the post of Accountant for very short period. We, therefore, direct the appellants to continue the respondent as Senior Accountant (Functional) till he reaches the age of superannuation i.e. up to 31-12-2007. At the same time, we hold that since the action of the authorities was in accordance with statutory rules, an order passed by the Deputy Accountant General cancelling promotion of the respondent and reverting him to his substantive post of Accountant was legal and valid and the respondent could not have been promoted as Senior Accountant, he would be deemed to have retired as Accountant and not as Senior Accountant (Functional) and his pensionary and retiral benefits would be fixed accordingly by treating him as Accountant all throughout. b c d

36. For the foregoing reasons, the appeal is partly allowed. Though the respondent is allowed to continue on the post of Senior Accountant (Functional) till he reaches the age of retirement i.e. 31-12-2007 and salary paid to him in that capacity will not be recovered, his retiral benefits will be fixed not as Senior Accountant (Functional) but as Accountant. In the facts and circumstances of case, there shall be no order as to costs. e

(2008) 2 Supreme Court Cases 758

(BEFORE S.B. SINHA AND H.S. BEDI, JJ.)

COMMISSIONER, MUNICIPAL CORPORATION,
HYDERABAD AND OTHERS . . . Appellants; f

Versus

P. MARY MANORANJANI AND ANOTHER . . . Respondents.

Civil Appeal No. 341 of 2008[†], decided on January 11, 2008

Service Law — Appointment — Judicial review/Validity of appointment — Held, “State” while making appointment cannot dispense with constitutional and statutory requirements — GOMs dated 16-1-1991 which cleared names of some voluntary workers, including respondent, for regular appointment, without being sponsored by employment exchange, held, could not be interpreted to dispense with other requirements like written test — g

[†] Arising out of SLP (C) No. 5885 of 2005. From the Final Order dated 4-11-2004 of the High Court of Andhra Pradesh at Hyderabad in WA No. 1714 of 2004 h

STATE OF U.P. v. NEERAJ AWASTHI

667

(2006) 1 Supreme Court Cases 667

(BEFORE S.B. SINHA AND P.P. NAOLEKAR, JJ.)

a STATE OF U.P. . . Appellant;

Versus

NEERAJ AWASTHI AND OTHERS . . Respondents.

Civil Appeals No. 4092 of 2001[†] with Nos. 3872-73, 4038, 4093-4102, 7545-7748 of 2001, 6810 and 6814 of 2005, decided on December 16, 2005

b A. Service Law — Regularisation — Nature, scope and entitlement to — Framing of schemes for, by judicial fiat in absence of legal right on part of persons concerned to continue in employment — Impermissibility — Power of High Court to direct Agricultural Produce Market Board in exercise of writ jurisdiction to frame scheme/policy for regularising services of ad hoc or daily-wage employees not having been appointed in terms of extant statutory provisions, rules and regulations, but to meet exigencies of situations — Non-availability of — Held, Supreme Court has now firmly laid down that regularisation cannot be a mode of appointment — Illegal appointments cannot be regularised and neither temporary nor permanent status be conferred by regularisation — An attempt to induct an employee without following the procedure would be a back-door appointment — Such back-door appointments have been deprecated by Supreme Court, times without number — Mere description of illegal appointments as “irregular” does not mean they are not illegal — Market Board or Committees in present case not having had the power to appoint ad hoc or daily-wage employees under the statutory provisions, rules and regulations, no legal relationship of employer and employee came into being between them and respondent-writ petitioners — Therefore, such persons, viz. respondent-writ petitioners, did not derive any status, and a fortiori derived no legal right to continue in service — Hence High Court could not have issued writ of or in the nature of mandamus directing Market Board to frame policy to regularise services of respondent-writ petitioners — Agricultural Produce — Market Boards and Committees — Labour Law — Constitution of India — Art. 226 — Interference in service or labour matters

(Paras 52, 53, 55, 59, 61, 62 and 70)

f B. Service Law — Reinstatement — Entitlement to — Sanctioned post — Need for — Held, when a post is not sanctioned, normally, directions for reinstatement should not be issued (Para 76)

g C. Agricultural Produce — U.P. Krishi Utpadan Mandi Adhiniyam, 1964 (25 of 1964) — Ss. 26-F, 23, 23-A and 19 — Power of appointment of officers and servants of Market Board and Market Committees under — Scope — Persons employed on daily wages, work-charged and/or part-time or ad hoc basis — Power to employ — Rights, if any derived by persons employed in such capacities — Held, power to make appointments by Board or Committees are statutory in nature — In absence of any power conferred upon them to appoint any employee dehors provisions of sections listed above and regulations framed thereunder, indisputably would mean that

h [†] From the Judgment and Order dated 5-9-2000 of the Allahabad High Court at Lucknow Bench in WP No. 1184 (SB) of 1999

668

SUPREME COURT CASES

(2006) 1 SCC

such appointments are de hors the Act and the 1965 Rules — Availability of funds and/or vacancies is not and cannot be a valid ground to make appointments without proper sanction and creation of posts and cannot be taken as an excuse to perpetrate illegalities — Furthermore, neither Board nor Committees have jurisdiction to appoint anybody on daily wages, work-charged or part-time basis de hors the Rules — Even if certain persons are appointed on ad hoc basis to meet exigencies of situations, such persons would not be “employees” within the meaning of provisions of Act, Rules and Regulations and a legal relationship between employer and employee would not come into being — Appointments in question having been made de hors the statute and Rules, and without procedures known in law and in flagrant violation of the constitutional scheme laid down in Arts. 14 and 16, although made in exigencies of services, held, wholly illegal and without jurisdiction — Service Law — Market Boards and Committees — Appointment — U.P. Krishi Utpadan Mandi Niyamavali, 1965 — Rr. 59 to 61 — U.P. Agricultural Produce Market Committee (Centralised) Service Regulations, 1984 — U.P. Agricultural Produce Markets Board (Officers and Staff Establishment) Regulations, 1984 — Applicability

[Paras 2, 29, 33 to 37, 57, 76, 77 and 79(i) & (v)]

D. Constitution of India — Art. 162 — Power of appointment under, if any — Held, no appointment can be made by State under Art. 162 as the same would be in contravention of statutory rules (Para 57)

E. Constitution of India — Art. 12 — “State” — U.P. State Agricultural Produce Market Board — Held, is “State” within the meaning of Art. 12 (Para 33)

A. *Umarani v. Registrar, Coop. Societies*, (2004) 7 SCC 112 : 2004 SCC (L&S) 918; *Executive Engineer, ZP Engineering Divn. v. Digambara Rao*, (2004) 8 SCC 262 : 2004 SCC (L&S) 1097; *Pankaj Gupta v. State of J&K*, (2004) 8 SCC 353 : 2004 SCC (L&S) 1125; *Madhyamik Shiksha Parishad, U.P. v. Anil Kumar Mishra*, (2005) 5 SCC 122 : 2005 SCC (L&S) 628; *Mahendra L. Jain v. Indore Development Authority*, (2005) 1 SCC 639 : 2005 SCC (L&S) 154; *State of U.P. v. Ajay Kumar*, (1997) 4 SCC 88 : 1997 SCC (L&S) 902; *Jawaharlal Nehru Krishi Vishwa Vidyalaya v. Bal Kishan Soni*, (1997) 5 SCC 86 : 1997 SCC (L&S) 1119; *Union of India v. Gagan Kumar*, (2005) 6 SCC 70 : 2005 SCC (L&S) 803; *State of Maharashtra v. R.S. Bhonde*, (2005) 6 SCC 751 : 2005 SCC (L&S) 907; *R.N. Nanjundappa v. T. Thimmiah*, (1972) 1 SCC 409 : (1972) 2 SCR 799, clarified and followed

Delhi Development Horticulture Employees' Union v. Delhi Admn., (1992) 4 SCC 99 : 1992 SCC (L&S) 805 : (1992) 21 ATC 386; *Manager, Reserve Bank of India v. S. Mani*, (2005) 5 SCC 100 : 2005 SCC (L&S) 609; *State of M.P. v. Dharam Bir*, (1998) 6 SCC 165 : 1998 SCC (L&S) 1459, relied on

Surya Narain Yadav v. Bihar SEB, (1985) 3 SCC 38 : 1985 SCC (L&S) 539; *Madan Singh v. State of Haryana*, (2006) 1 SCC 693 : AIR 1988 SC 2133; *Raj Narain Prasad v. State of U.P.*, (1998) 8 SCC 473 : 1998 SCC (L&S) 1697; *All Manipur Regular Posts Vacancies Substitute Teachers' Assn. v. State of Manipur*, 1991 Supp (2) SCC 643 : 1992 SCC (L&S) 122 : (1991) 17 ATC 929, distinguished

State of Haryana v. Piara Singh, (1992) 4 SCC 118 : 1992 SCC (L&S) 825 : (1992) 21 ATC 403, clarified and relied on

Rajnish Varshney v. State of U.P., (All) (DB), held, per incuriam (Para 20)

F. Agricultural Produce — U.P. Krishi Utpadan Mandi Adhiniyam, 1964 (25 of 1964) — Ss. 26-F, 23, 23-A and 26-X — Power of appointment,

- creation of posts and/or regularisation of ad hoc appointees — Proper mode of exercise of, by Market Board — Held, Board was bound to make a regulation if it intended to put the ad hoc appointee respondent-writ petitioners on its rolls, for which it would have required previous approval of State Government, as required in S. 26-X — It could not have done so merely by passing a resolution — A decision by way of resolution or otherwise cannot be taken by Board which is beyond scope and purview of the Act and Regulations framed thereunder — High Court was erroneously of the opinion that it was not necessary to pass a regulation — Resolution in present case adopted by Board for purported regularisation of respondents was beyond its domain, in the face of statutory regulations operating in the field — U.P. Agricultural Produce Markets Board (Officers and Staff Establishment) Regulations, 1984 — Applicability — U.P. Agricultural Produce Market Committee (Centralised) Service Regulations, 1984 — Administrative Law — Administrative Bodies — Administrative/Statutory Authorities — Exercise of statutory power — Proper mode of**
[Paras 38, 39, 56, 77 and 79(ii)]
- [Ed.: See also Administrative Law, “3. (b)(2) Administrative/Statutory Authorities — Exercise of statutory power”, p. 108, Vol. 1, *Complete Digest of Supreme Court Cases*, 2nd Edn.]
- G. Service Law — U.P. Regularisation of Ad Hoc Appointments (on Posts outside the Purview of the Public Service Commission) Rules, 1979 — Applicability — Ad hoc employees of U.P. Agricultural Produce Market Board and Committees, if covered — Held, provisions of 1979 Rules by no stretch of imagination can be said to be applicable to said employees — Agricultural Produce — U.P. Agricultural Produce Markets Board (Officers and Staff Establishment) Regulations, 1984 — Regn. 29 — Applicability**
(Paras 71 to 74)
- H. Constitution of India — Art. 14 — Scope and applicability — Indulgence, error or illegality — Extension of benefit/relief conferred on basis of — Impermissibility — Held, if illegality has been committed in the past, it is beyond comprehension as to how such illegality can be allowed to perpetrate — Art. 14 has a positive concept — No equality can be claimed in illegality**
(Para 75)
- I. Service Law — Regularisation — Entitlement to — Past illegal regularisation/appointment, held, does not create entitlement to further regularisation/appointment — Appointment — Labour Law**
(Para 75)
State of A.P. v. S.B.P.V. Chalapathi Rao, (1995) 1 SCC 724; *Jalandhar Improvement Trust v. Sampuran Singh*, (1999) 3 SCC 494; *State of Bihar v. Kameshwar Prasad Singh*, (2000) 9 SCC 94 : 2000 SCC (L&S) 845, *relied on*
- [Ed.: See also Art. 14, “(b)(3)(xi) Indulgence, error or illegality — If benefit/relief conferred on basis of can be extended”, pp. 818 et seq. in Vol. 4, *Complete Digest of Supreme Court Cases*, 2nd Edn.]
- J. Agricultural Produce — U.P. Krishi Utpadan Mandi Adhiniyam, 1964 (25 of 1964) — Ss. 26-M, 26-L and 26-F, 23, 23-A & 26-X — Power of State Government to issue directions to Market Board under S. 26-M — Scope — Appointment of officers and servants of Market Board and Market Committees — Power of State to issue directions to Market Board in respect of — Availability of — If affected by S. 26-L — Mode and manner of issue of**

670

SUPREME COURT CASES

(2006) 1 SCC

such directions — Held, power of State Government is confined to issue of directions on questions of policy, in relation to activities of Board under the Act and not de hors it — Given the manner in which S. 26-L is framed, directions that may be issued by State are not limited to matters specifically enumerated in S. 26-L — State cannot, however, interfere in day-to-day functioning of the Board — If a policy decision is taken by Board in regard to appointment or terms or conditions of officers and servants, in the event regulations made in that behalf do not contain any provisions, such policy decision must conform to directions of State issued in that behalf, if any — Board, however, in law cannot abdicate its power in favour of State Government — Furthermore, directions by State Government must be issued in terms of constitutional scheme i.e. upon compliance with requirement of Art. 162 r/w Art. 166 — In present case, same not having been done, direction by State directing that services of all employees of Market Board and Committees who had been illegally appointed during period in question, be cancelled on last-come-first-go basis, was strictly not in accordance with law — Though said direction was therefore not binding on Board, however, it could not be said to be wholly irrational or unreasonable — It is only upon application of mind to facts and circumstances of this case that said direction was issued — Though said termination order upheld, certain consequential orders issued for filling of existing vacancies, but strictly in accordance with law — Constitution of India — Arts. 166 and 162 — Executive directions issued by State — Non-compliance with provisions of — Effect

[Paras 40, 41, 43 to 46, 50, 79(iii), (iv) and 80]

Rakesh Ranjan Verma v. State of Bihar, 1992 Supp (2) SCC 343 : 1992 SCC (L&S) 866 : (1992) 21 ATC 521; *U.P. SEB v. Ram Autar*, (1996) 8 SCC 506 : 1996 SCC (L&S) 1023; *Bangalore Development Authority v. R. Hanumaiah*, (2005) 12 SCC 508 : (2005) 8 Scale 80, *relied on*

Punit Rai v. Dinesh Chaudhary, (2003) 8 SCC 204; *Dwarka Nath Tewari v. State of Bihar*, AIR 1959 SC 249, *relied on*

K. Labour Law — Industrial Disputes Act, 1947 — Ss. 2(oo), 25-F and 25-N — Retrenchment under — Non-applicability of principles of natural justice — Held, if retrenchment is effected under ID Act, question of compliance with principles of natural justice does not arise — High Court erred in holding that such compliance is necessary — Principles of natural justice would be attracted only when a punitive or stigmatic termination is made — Termination of service — Service Law (Paras 47 and 49)

Suresh Chandra Verma (Dr.) v. Chancellor, Nagpur University, (1990) 4 SCC 55 : 1991 SCC (L&S) 194 : (1991) 16 ATC 439; *Karnataka Public Service Commission v. B.M. Vijaya Shankar*, (1992) 2 SCC 206 : 1992 SCC (L&S) 362 : (1992) 20 ATC 215; *State of M.P. v. Shyama Pardhi*, (1996) 7 SCC 118 : 1996 SCC (L&S) 466 : (1996) 32 ATC 789; *Viveka Nand Sethi v. Chairman, J&K Bank Ltd.*, (2005) 5 SCC 337 : 2005 SCC (L&S) 689; *Gurjeewan Garewal (Dr.) v. Dr. Sumitra Dash*, (2004) 5 SCC 263 : 2004 SCC (L&S) 747, *relied on*

L. Constitution of India — Arts. 141 and 142 — Directions issued under Art. 142 — Binding effect — Held, such directions do not constitute a binding precedent (Para 69)

D-M/33644/CL

STATE OF U.P. v. NEERAJ AWASTHI

671

Advocates who appeared in this case :

- a** M.L. Verma, Uday Umesh Lalit, G.L. Sanghi, Anoop George Chaudhari and Ms Shobha Dikshit, Senior Advocates (N.C. Mehrotra, Aarohi Bhalla, Satya Mitra, Ms Sujata Kurdukar, Shakil Ahmad Syed, Mohd. Taiyab Khan, Firasat Ali Siddiqui, Shashindra Tripathi, M.P. Shorawala, M.C. Dhingra, Kumar Parimal, Aniruddha P. Mayee, Ms Hema Sahu, C.L. Sahu, Ms Rachana Srivastava, Irshan Ahmad, D. Mahesh Babu, Raj Singh Rana and Shail Kr. Dwivedi, Advocates) for the appearing parties.

Chronological list of cases cited

		on page(s)
b	1. (2006) 1 SCC 693 : AIR 1988 SC 2133, <i>Madan Singh v. State of Haryana</i>	688a
	2. (2005) 12 SCC 508 : (2005) 8 Scale 80, <i>Bangalore Development Authority v. R. Hanumaiah</i>	683a
	3. (2005) 6 SCC 751 : 2005 SCC (L&S) 907, <i>State of Maharashtra v. R.S. Bhonde</i>	687c-d
	4. (2005) 6 SCC 70 : 2005 SCC (L&S) 803, <i>Union of India v. Gagan Kumar</i>	687c-d
c	5. (2005) 5 SCC 337 : 2005 SCC (L&S) 689, <i>Viveka Nand Sethi v. Chairman, J&K Bank Ltd.</i>	684d-e
	6. (2005) 5 SCC 122 : 2005 SCC (L&S) 628, <i>Madhyamik Shiksha Parishad, U.P. v. Anil Kumar Mishra</i>	686f
	7. (2005) 5 SCC 100 : 2005 SCC (L&S) 609, <i>Manager, Reserve Bank of India v. S. Mani</i>	687b
d	8. (2005) 1 SCC 639 : 2005 SCC (L&S) 154, <i>Mahendra L. Jain v. Indore Development Authority</i>	686f
	9. (2004) 8 SCC 353 : 2004 SCC (L&S) 1125, <i>Pankaj Gupta v. State of J&K</i>	686e
	10. (2004) 8 SCC 262 : 2004 SCC (L&S) 1097, <i>Executive Engineer, ZP Engineering Divn. v. Digambara Rao</i>	686c-d
	11. (2004) 7 SCC 112 : 2004 SCC (L&S) 918, <i>A. Umarani v. Registrar, Coop. Societies</i>	686a, 686e, 687b
e	12. (2004) 5 SCC 263 : 2004 SCC (L&S) 747, <i>Gurjeewan Garewal (Dr.) v. Dr. Sumitra Dash</i>	684e
	13. (2003) 8 SCC 204, <i>Punit Rai v. Dinesh Chaudhary</i>	683b-c
	14. (2000) 9 SCC 94 : 2000 SCC (L&S) 845, <i>State of Bihar v. Kameshwar Prasad Singh</i>	691a
	15. (1999) 3 SCC 494, <i>Jalandhar Improvement Trust v. Sampuran Singh</i>	690h
f	16. (1998) 8 SCC 473 : 1998 SCC (L&S) 1697, <i>Raj Narain Prasad v. State of U.P.</i>	688b
	17. (1998) 6 SCC 165 : 1998 SCC (L&S) 1459, <i>State of M.P. v. Dharam Bir</i>	682d-e
	18. (1997) 5 SCC 86 : 1997 SCC (L&S) 1119, <i>Jawaharlal Nehru Krishi Vishwa Vidyalaya v. Bal Kishan Soni</i>	687a-b
	19. (1997) 4 SCC 88 : 1997 SCC (L&S) 902, <i>State of U.P. v. Ajay Kumar</i>	687a-b
	20. (1996) 8 SCC 506 : 1996 SCC (L&S) 1023, <i>U.P. SEB v. Ram Autar</i>	675g-h, 683a
g	21. (1996) 7 SCC 118 : 1996 SCC (L&S) 466 : (1996) 32 ATC 789, <i>State of M.P. v. Shyama Pardhi</i>	684d
	22. (1995) 1 SCC 724, <i>State of A.P. v. S.B.P.V. Chalapathi Rao</i>	690h
	23. (1992) 4 SCC 118 : 1992 SCC (L&S) 825 : (1992) 21 ATC 403, <i>State of Haryana v. Piara Singh</i>	685e-f, 687g, 688b
	24. (1992) 4 SCC 99 : 1992 SCC (L&S) 805 : (1992) 21 ATC 386, <i>Delhi Development Horticulture Employees' Union v. Delhi Admn.</i>	685e
h	25. (1992) 2 SCC 206 : 1992 SCC (L&S) 362 : (1992) 20 ATC 215, <i>Karnataka Public Service Commission v. B.M. Vijaya Shankar</i>	684d

672	SUPREME COURT CASES	(2006) 1 SCC
26.	1992 Supp (2) SCC 343 : 1992 SCC (L&S) 866 : (1992) 21 ATC 521, <i>Rakesh Ranjan Verma v. State of Bihar</i>	675g-h, 683a
27.	1991 Supp (2) SCC 643 : 1992 SCC (L&S) 122 : (1991) 17 ATC 929, <i>All Manipur Regular Posts Vacancies Substitute Teachers' Assn. v. State of Manipur</i>	a 689a
28.	(1990) 4 SCC 55 : 1991 SCC (L&S) 194 : (1991) 16 ATC 439, <i>Suresh Chandra Verma (Dr.) v. Chancellor, Nagpur University</i>	684d
29.	(1985) 3 SCC 38 : 1985 SCC (L&S) 539, <i>Surya Narain Yadav v. Bihar SEB</i>	687d-e
30.	(1972) 1 SCC 409 : (1972) 2 SCR 799, <i>R.N. Nanjundappa v. T. Thimmiah</i>	688b-c
31.	AIR 1959 SC 249, <i>Dwarka Nath Tewari v. State of Bihar</i>	683d b

The Judgment of the Court was delivered by

S.B. SINHA, J.— The jurisdiction of the High Court to issue a direction for framing a scheme for regularisation of the employees of the U.P. Agricultural Produce Market Board (for short “the Board”) is in question in this batch of appeals which arise out of judgments and orders passed by the High Court of Judicature at Allahabad in the writ petitions filed by the private respondents either dismissing or allowing the same. c

The Act

2. The legislature of the State of Uttar Pradesh enacted the Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, 1964 (for short “the Act”). The Board has been established under Section 26-A of the Act. Section 26-B provides for the constitution of the Board. In exercise of its power conferred upon it by Sections 25-A and 26-X of the Act, regulations have also been framed by the Board laying down the terms and conditions of the service of the employees of the Market Committees known as the Uttar Pradesh Agricultural Produce Market Committee (Centralised) Service Regulations, 1984 (for short “the Service Regulations”). Similar regulations have also been framed by the Board in respect of its own employees being the Uttar Pradesh Agricultural Produce Markets Board (Officers and Staff Establishment) Regulations, 1984 (for short “the Establishment Regulations”). d e

Background facts

3. In the State of Uttar Pradesh, there are 244 Market Committees. 3395 posts were sanctioned but indisputably 5600 appointments have been made. We are herein concerned with the orders of appointments and orders of terminations issued in respect of about 1021 employees who were appointed between the period 1-4-1996 and 30-10-1997. A resolution was passed by the Board on or about 30-9-1996 proposing regularisation of the services of those employees who had completed one thousand days of service. The Board also had its construction divisions. The said proposal was, however, confined to the employees working in the construction divisions against contingency funds. Approval having been sought from the State Government in relation to framing of appropriate rules, in this behalf, information was sought from various departments including Mandi Parishad in regard to the appointments made in the past six months by a letter dated 20-11-1997. Relevant information was furnished by the Director of the Mandi Parishad whereafter the State sought further information and details regarding the f g h

STATE OF U.P. v. NEERAJ AWASTHI (*Sinha, J.*)

673

appointments made in the Mandi Parishad and Mandi Samitis by a letter dated 17-3-1998. Such information was sought by the State again by a letter
a dated 18-5-1998. On or about 12-2-1999, an order was issued by the State directing that services of all such employees who had been irregularly appointed during the period 1-4-1996 to 30-10-1997 be cancelled on last-come-first-go basis stating:

b “1. The irregular appointment made in the Mandi Parishad and Mandi Samitis during the period w.e.f. 1-4-1996 to 30-10-1997 should be cancelled immediately. The following course should be adopted to terminate such appointments:

c (a) There is no legal impediment in terminating the service of the employee concerned after cancelling the appointments which have been made without any created/sanctioned post but the reason therefor shall have to be recorded in the order.

c (b) There is no legal impediment in terminating the service after cancelling the appointments of such persons as did not have educational qualifications prescribed for the post concerned but the reason therefor should be recorded in the order.

d (c) The termination of service of such persons, as have been appointed in relation to some post and also have educational qualification prescribed for that post, should be made in accordance with the procedure mentioned in their appointment order. In case, no procedure is mentioned in the appointment order, their service should be terminated after giving either notice or pay in lieu thereof.

e (2) In this regard I have to inform this thing also that after making intensive examination in respect of irregular appointments made in the Mandi Parishad and Mandi Samitis before 1-4-1996, kindly furnish a clear report along with a detailed statement by 20-2-1999.

(3) Kindly make available in each case by 18-2-1999 your proposal with clear recommendation to the Government for action against the officers responsible for the said irregular appointments.”

f 4. Further directions were issued on 17-3-1999 in the following terms:

g “In regard to the appointed subject and Semi-Government Letter No. Dire-Camp/99-468 dated 8-3-1999, I have been directed to say that keeping in view the decision taken by the Government in regard to irregular appointments made on the post of various categories in the U.P. State Agricultural Marketing Board, there has been no requirement of prescribed procedure rules. In such circumstances, the proposal sent to the Government vide Letter No. 1418/Camp dated 18-10-1996 of the Marketing Board Office is rejected by the Government after due consideration.”

h 5. Pursuant thereto or in furtherance of such directions, the services of a large number of employees were terminated on or about 20-3-1999.

674

SUPREME COURT CASES

(2006) 1 SCC

6. On 27-1-1998, the Director of the Board informed the Secretary, Department of Agriculture that all appointments are unauthorised/irregular and, thus, void ab initio and, therefore, their appointments should be terminated following the rules. In the said letter, the opinion of the Chairman of the Board was quoted stating: a

“As the action, whatsoever, taken in this matter will create wide-ranging ramifications (both political and administrative) therefore it will be proper to send the factual report of the whole case to the Government for guidance. It will be expedient to take further action after consulting the Department of Justice and obtaining orders from the Hon’ble Minister for Agriculture and the Hon’ble Chief Minister.” b

7. Photocopies of the notesheets and photocopies of the details of all appointments and the report received from the Deputy Director (Administration) were annexed thereto.

8. It may be noticed that the State in the meantime had also refused to approve the proposed rules framed by the Board for regularisation of its employees. c

Proceedings before the High Court

9. Questioning the aforementioned directions of the State, one Rajnish Varshney filed a writ petition before a Division Bench of the Allahabad High Court in April 1999. By the judgment and order dated 11-8-2000, a learned Single Judge of the Allahabad High Court allowed the same, holding that the orders of termination issued pursuant to the orders of the State Government dated 12-2-1999 were illegal. A Division Bench of the High Court, Lucknow Bench, put its seal of approval to the order of the learned Single Judge by a judgment and order dated 5-9-2000 in similar writ petitions filed by other dismissed employees. A writ petition filed by one Anshuman Misra, however, was dismissed by another Division Bench of the Allahabad High Court at Lucknow upholding the said order of the State Government. d

10. The parties are, thus, before us.

Submissions

On behalf of the Board f

11. Submission of Mr M.L. Verma, learned Senior Counsel appearing on behalf of the Board are:

(i) In terms of the statutory mandate contained in Section 26-M of the Act, the Board was bound by the directions issued by the State.

(ii) The appointments having been made in utter disregard of the mandatory provisions of the Service Regulations and the Establishment Regulations, the employees did not derive any legal right to continue in the said posts. g

(iii) Such appointments having been made on a pick-and-choose method and on an ad hoc basis, the judgments of the High Court cannot be sustained. h

STATE OF U.P. v. NEERAJ AWASTHI (*Sinha, J.*)

675

a (iv) Indisputably the provisions of the U.P. Industrial Disputes Act and the Rules framed thereunder relating to retrenchment of workmen were complied with and in that view of the matter it cannot be said that the orders of termination passed against the employees were illegal.

(v) In any view of the matter, the remedy of the employees, if any, was to approach the Industrial Courts.

(vi) It is not a case, it was urged, where principles of natural justice were required to be complied with.

b ***On behalf of the State***

c 12. Mr Uday Umesh Lalit, learned Senior Counsel appearing on behalf of the State of Uttar Pradesh submitted that from the records it would appear that the State adopted a known criterion for cancellation of appointment of such employees who were in the last slots, namely, 1-4-1996 to 30-10-1997. Such orders of termination ensured that the principles of last-come-first-go basis are followed and the employees are paid one month's salary in lieu of notice as also 15 days' wages for each completed year of service by way of compensation. No appointment having been made after 30-10-1997, the impugned judgment of the High Court cannot be sustained.

On behalf of the writ petitioners

d 13. Mr Anoop G. Chaudhari, learned Senior Counsel appearing on behalf of the respondents, on the other hand, urged:

(i) That the appointments of the employees cannot be said to be illegal as the provisions contained in the respective Regulations apply to appointments in the regular cadre.

e (ii) There is no embargo in appointing employees on ad hoc basis in exigency of service or on work-charge basis recognised in the Regulations in view of the fact that such employees do not derive the benefits which are granted to the regular employees.

f (iii) Section 26-M of the Act had no application in the facts of the case in view of the fact that appointment of ad hoc employees is not a matter which would come within the purview of the functions of the Board as envisaged under Sections 26-F and 26-L of the Act. In any event, so far as the appointments of employees employed in the Market Committees are concerned, the same being governed by Section 23 of the Act, Section 26-M thereof will have no application.

g (iv) By reason of purported directions issued under Section 26-M, the rights and privileges granted to the employees under other statutes cannot be taken away.

(v) In view of the decision of this Court in *Rakesh Ranjan Verma v. State of Bihar*¹ and *U.P. SEB v. Ram Autar*² the statutory power of appointment being vested in the Board, the State could not interfere therewith.

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1 1992 Supp (2) SCC 343 : 1992 SCC (L&S) 866 : (1992) 21 ATC 521

2 (1996) 8 SCC 506 : 1996 SCC (L&S) 1023

676

SUPREME COURT CASES

(2006) 1 SCC

(vi) In any view of the matter, the purported policy decision adopted by the State must be held to be wholly illegal and without jurisdiction as prior thereto the requirements of each of the Samitis had not been taken into consideration. It was pointed out that even by 1998 full reports had not been submitted by the Board as regards the financial position of the Market Committees vis-à-vis the strength of the employees and, thus, the policy decision must be held to have been made without any application of mind. a

(vii) A policy decision of a State cannot be communicated by a demi-official letter without complying with the constitutional norms. b

(viii) One set of ad hoc employees and/or daily-wagers should not be replaced by another set of ad hoc employees/daily-wagers.

(ix) The Board having adopted a resolution to regularise the services of its employees, there was no need to obtain any approval from the State. c

(x) As admittedly no appointment whatsoever was made in terms of the statutory regulations since the inception of constitution of the Market Committees and Boards, the State could not have ignored the past practice particularly in a case of this nature where the employees concerned have requisite educational qualifications. d

(xi) The court in such a situation can be said to have the requisite jurisdiction in directing a State within the meaning of Article 12 of the Constitution to make a scheme of regularisation.

14. Mr G.L. Sanghi, learned Senior Counsel appearing on behalf of another writ applicant submitted that institutions of the Market Committees and the Board having their activities principally in rural areas, the human problem should not be ignored as without such daily-wagers or ad hoc employees functions of the statutory body may have to be stopped. e

15. The learned counsel submitted that the appointments being not void ab initio and of no effect, the State could not have issued directions for termination of their services. As the appointments were made having regard to the necessity felt by the Market Committees and the Board, this Court should not exercise its discretionary jurisdiction under Article 136 of the Constitution. f

16. Mrs Shobha Dikshit, learned Senior Counsel appearing on behalf of Rajnish Varshney supplemented the arguments of Mr Chaudhari and Mr Sanghi contending that there was no material before the Government for issuing the impugned instructions. It was submitted that the Market Committees having regard to Section 19 of the Act had their own funds, the case of each Committee should have been considered separately. g

The High Court

17. A learned Single Judge of the High Court in his order dated 11-8-2000, which has been approved by the Division Bench of the Allahabad High Court in its judgment dated 5-9-2000, held that: h

STATE OF U.P. v. NEERAJ AWASTHI (*Sinha, J.*)

677

a (i) The normal functions of the Board pertain to establishment or construction of new market yards; control over Market Committees, direction to the Committees to ensure efficiency, etc., it could not have interfered in the functioning of the Market Committees.

(ii) The procedures prescribed were to be applied in relation to selection of regular employees and not ad hoc employees or daily-wagers.

b (iii) No principle has been laid down as to why ad hoc employees engaged before 1-4-1996 and after 30-10-1997 should be retained in service and, thus, the action of the State was discriminatory in nature.

(iv) The Government instead of formulating any policy resorted to an arbitrary method of issuing a “Tughlaki” order in terminating the services of the employees recruited between 1-4-1996 and 30-10-1997.

c (v) Although such irregular appointments have been made by several Directors but only those made by two of them, namely, Shri P.N. Misra and Dr. Raja Ram, having been picked up for being cancelled, the same being discriminatory and mala fide, the order impugned in the writ application was unsustainable.

d (vi) An employee should not be continued to be kept as ad hoc employee for more than 240 days.

(vii) The resolution of the Board to regularise services of such employees who have completed one thousand days of service was valid. As the writ petitioners have been working in various Committees for a long period ranging from six to nine years, termination of their services was arbitrary.

e (viii) The principles of natural justice have been ignored in terminating the services of such employees and, thus, the orders terminating the services of the writ petitioners were bad in law.

18. It was directed:

f “Having regard to the discussions made above, I am inclined to hold that written and verbal termination orders of the petitioners issued by the authorities at the direction of the Government as contained in the letter dated 12-2-1999 are arbitrary, unreasonable and discriminatory and, therefore, all such termination orders along with the irrational impugned letter of source dated 12-2-1999 are hereby quashed. A writ of certiorari is issued accordingly. Further, a writ of mandamus is also issued commanding the opposite parties to allow the petitioners to resume their duty with immediate effect. They shall be deemed to have continued in service and as such, they shall be relegated to their original position. However, they will not get their back wages. The U.P. Agricultural Produce Market Board shall within six months resolve and formulate a policy to deal with the terms of their service by giving due consideration to its earlier resolution regarding regularisation of their services. The Board will also take stern steps to ensure that such an odd situation to the embarrassment of the competent authorities does not arise in future.”

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678

SUPREME COURT CASES

(2006) 1 SCC

19. However, as noticed supra, another Division Bench of the same court in its judgment dated 13-11-2000 opined that the appointments having been made in violation of the statutory regulations, the appointees must be held to have entered into service through the back door and in that view of the matter, the State has the requisite jurisdiction to issue a direction in terms of Section 26-M of the Act. a

20. The judgment of the Division Bench dated 5-9-2000 passed in *Rajnish Varshney v. State of U.P.* was made in ignorance of an earlier Division Bench decision in *Raja Ram Maurya v. U.P. Rajya Krishi Utpadan Mandi Parishad, Lucknow* and, thus, was rendered per incuriam. b

Relevant provisions of the statutes

21. Before adverting to the rival contentions, we may briefly notice the provisions of the said Act.

22. Market Committees are incorporated and constituted in terms of Sections 12 and 13. Section 19 of the said Act provides for establishment of a Market Committee Fund. Sub-section (2) of Section 19 mandates that all expenditure incurred by the Committee shall be defrayed out of the said fund and the surplus, if any, shall be invested in such a manner as may be prescribed. Sub-section (3) of Section 19 inter alia illustrates as to how such funds are to be utilised including salaries, pensions and allowances, etc. and other expenses, as may be prescribed, as specified in clause (i). The proviso appended thereto mandates that annual expenditure in respect of matters specified in clause (i) shall not exceed 10% of the total annual receipts of the Committee excluding loans raised by it and advances or grants made to it except with the prior approval of the Board. c d

23. Section 23 of the Act occurring in Chapter IV provides for appointments of officers and servants of the Market Committee and their conditions of service. The appointments of such officers who may be appointed for carrying out the purpose of the Act must be done in terms of the bye-laws framed by it. Sub-section (2) of Section 23 envisages that every Committee shall have such number of secretaries and such other officers as may be considered necessary by the Board for the effective discharge of the functions of the Committee, appointed by the Board on such terms and conditions as may be provided for in the regulations made by it. e f

24. Chapter V of the Act deals with external control. Establishment and constitution of the Board are envisaged under Sections 26-A and 26-B. Section 26-A empowers the Board to appoint such officers and servants as it considers necessary for efficient performance of its functions on such terms and conditions, as may be provided for in the Regulations made by the Board. Section 26-L provides for the powers and functions of the Board. Functions of the Board are provided for in sub-section (1) thereof stating: g

“26-L. (1)(i) superintendence and control over the working of the Market Committees and other affairs thereof including programmes undertaken by such Committees for the construction of new market yards and development of existing markets and market areas; h

- (ii) giving such direction to Committees in general or any Committee in particular with a view to ensure efficiency thereof;
- a (iii) any other function entrusted to it by this Act;
- (iv) such other functions as may be entrusted to the Board by the State Government by notification in the Gazette.”
25. The powers of the Board have been enumerated under sub-section (2) of Section 26-L of the Act which includes:
- b “26-L. (2)(x) to do such other things as may be of general interest to Market Committees or considered necessary for the efficient functioning of the Board as may be specified from time to time by the State Government.”
26. Section 26-M of the Act empowers the State Government to issue directions in the following terms:
- c “26-M. (1) In the discharge of its functions, the Board shall be guided by such directions on question of policy as may be given to it by the State Government.
- (2) If any question arises whether any matter is or is not a matter as respects which the State Government may issue a direction under sub-section (1), the decision of the State Government shall be final.”
- d 27. Section 26-V of the Act provides for accounts and audit. Section 26-X thereof empowers the Board to make regulations with the previous approval of the State Government which shall be subject to the said Act and the Rules made thereunder. Section 32 of the Act confers power upon the Board to call for the proceedings of a Committee for the purpose of satisfying itself as regards legality or propriety of a decision or an order or orders and pass order thereon as it may deem fit if it is of the opinion that the decision or order of the Committee should be modified, annulled or reversed.
- e Section 33-B of the Act reads as under:
- “33-B. *Powers of the State Government.*—(1) The State Government with a view to satisfying itself that the powers, functions and duties of the Board or a Committee by or under this Act are exercised or performed by it properly, may require the Commissioner or the Collector or any other person or persons to inspect or cause to be inspected any property, office, document or any work, of the Board or the Committee or to make inquiries into all or any of the activities of the Board or the Committee in such manner as may be prescribed and to report to it the result of such inquiry within such period as may be specified.
- f (2) The Board or the Committee, as the case may be, shall give to the Commissioner or the Collector, or other person or persons, all facilities during inspection and for the proper conduct of the inquiry and shall produce any document or information in its possession when so demanded for the purpose of such inspections or inquiry, as the case may be.”
- g 28. Section 39 of the Act provides for the bye-law-making power in the Market Committee. The proviso appended to Section 33 provides that no bye-law other than a bye-law made by adopting the draft or model bye-law suggested by the Board shall be valid unless approved by it. Section 40 of the
- h Act provides for rule-making power.

680

SUPREME COURT CASES

(2006) 1 SCC

29. The State Government framed rules known as the U.P. Krishi Utpadan Mandi Niyamavali, 1965 (for short “the Rules”) in terms of Section 40 of the Act. The functions, duties and powers of the Committees in terms of Sections 16 and 17 of the Act have been laid down in Rule 46. Rule 60 states that the qualifications, designations, grades, salaries and allowances of the posts of officers and servants whose appointing authority is the Committee shall be approved by the Director. Such appointment made by the Committee under sub-section (1) of Section 23 of the Act for those posts wherefor the Committee is the appointing authority shall be intimated within 30 days of the date of such appointments to the Director or to such officer as may be authorised by the Director in this behalf. Sub-rule (3) of Rule 60 mandates that the Market Committee shall maintain service records and character rolls in such forms as are prescribed for government servants and those records shall be kept in the custody of the Market Secretary. Rule 63 provides for the functions, powers and duties of the Secretary.

30. In exercise of its regulation-making power, as noticed hereinbefore, the Service Regulations and the Establishment Regulations have been made.

31. Regulation 2(e) defines “employee” to mean:

“every person appointed on whole-time basis in Classes ‘A’, ‘B’, ‘C’ and ‘D’ mentioned in Regulation 5, whether on contract basis, on deputation or otherwise but does not include persons employed on daily wages, work-charged and on part-time basis.”

Chapter IV of the Establishment Regulations provides for recruitment and appointment. Regulation 9 specifies the appointing authority in respect of the posts shown in column 1 of the table. Regulation 10 provides for the source of recruitment inter alia providing that 85 per cent posts in lowest grade in Class ‘C’ shall be filled by direct recruitment and 15 per cent by promotion from Class ‘D’ and all the posts in Class ‘D’ shall be filled by direct recruitment. Regulation 11(1) provides for constitution of a Selection Committee for the purpose of recruitment to Class ‘A’ and ‘B’ posts whereas Regulation 11(2) provides for constitution of a Selection Committee for recruitment to Class ‘C’ and ‘D’ posts. Regulation 12 empowers the appointing authority to determine the number of vacancies in all the classes to be filled during the course of the year as also the number of vacancies to be reserved for candidates belonging to Scheduled Castes and Scheduled Tribes and other categories under Regulation 8. The other sub-regulations contained in Regulation 12 provide for the mode and manner in which such vacancies shall be filled up. Chapter V lays down the conditions of service by way of appointment, probation, confirmation and seniority. Chapter VI provides for superannuation, pay, allowances and other service conditions.

32. The Service Regulations contain similar provisions. Part III of the said Regulations deals with recruitment and procedure. Regulation 10 lays down that recruitment may be made either from the open market or through promotion. Regulation 11 provides for reservation. Constitution of Selection Committee is contained in Regulation 12. Regulation 14 provides for

determination of vacancies whereas Regulation 16 provides for the procedure of selection by direct recruitment. Chapter V of the said Regulations lays down the mode and manner in which the appointment, probation, confirmation and seniority would be made.

Legality of the appointments

33. The Board is “State” within the meaning of Article 12 of the Constitution. It was constituted in terms of the provisions of the said Act. As the powers and functions of the Board as also the State in terms of the provisions of the statute having been delineated, they must act strictly in terms thereof. It is a statutory authority. Its powers, duties and functions are governed by the statute. It is responsible for constitution of the Market Committees for the purpose of overseeing that agriculturists while selling their agricultural produce receive the just price therefor. It not only regulates sale and purchase of the agricultural produce but also controls the markets where such agricultural produces are bought and sold. The Board is entitled to levy market fee and recover the same from the buyers and sellers through Market Committees. Indisputably, the Market Committees and the Board have power to appoint officers and servants. Although the power of the Board in this respect is not circumscribed, that of the Market Committees is. The Market Committees can appoint only such number of secretaries and other officers as may be necessary for efficient discharge of its functions. Terms and conditions of such services are to be provided by it. Section 19 of the Act, however, imposes further restriction on the power of the Market Committee by limiting the annual expenditure made in this regard not exceeding 10% of the total annual receipt of the Committee.

34. The appointments for different classes of employees are to be made by the Board and the officers, as the case may be, in terms of the provisions of the Regulations.

35. Both the Service Regulations and the Establishment Regulations, as noticed hereinbefore, are applicable respectively to the employees of the Board as also the Market Committees. The said Regulations provide for detailed procedure for appointment and the terms and conditions therefor. No appointment, thus, can be made in violation of the provisions of the statute and the statutory rules.

36. Submission of the learned counsel appearing on behalf of the employees is that the procedures prescribed by reason of the Regulations are applicable to the regular employees. It is so. The question which, however, falls for consideration is as to whether any appointment can be made dehors the provisions of the Act and the Rules. Our attention has been drawn to the definition of “employee” which does not include persons employed on daily wages, work-charged and/or part-time basis. If the expression “employee” does not bring within its fold any person employed on daily wages, work-charged or on part-time basis, the same would mean that the persons so appointed would not be employees within the meaning of the said Regulations. It would, therefore, not be correct to contend that the Market

682

SUPREME COURT CASES

(2006) 1 SCC

Committee or the Board has the jurisdiction to appoint anybody on daily wages, work-charged or on part-time basis de hors the Rules. The power to make appointments by the Committee or the Board whether contained in Section 23 or Section 26-F of the Act are statutory in nature. In the absence of any power conferred upon them to appoint any employee de hors the provisions of Sections 23 and 26-F and the Regulations framed thereunder, indisputably would mean that such appointments are de hors the Act and the Rules. The Rules also provide that any appointment made by the Committee under sub-section (1) of Section 23 shall be intimated within 30 days of such appointment to the Director or to such other officer as may be authorised by the Director in this behalf. It implies that although the Market Committee may have power to make appointments, such appointments can be made in relation to the posts created therefor by the Board wherefor requisite intimation has to be given to the Director or the officer authorised in this behalf. We may assume that for meeting the exigencies of situations it may be possible for the Committee or the Board to appoint a person on ad hoc basis. Such ad hoc employees, however, being not “employees” within the meaning of the provisions of the Act and the Regulations, a legal relationship between the employer and the employee would not come into being. As no legal relationship of employer and employee comes into being, evidently, such persons do not derive any status. They *a fortiori* derive no legal right to continue in service subject, of course, to compliance with the provisions of any other Act or the Rules conferring certain benefits to them. (See *State of M.P. v. Dharam Bir*³.)

37. Sections 23 and 26-F of the Act categorically mandate that all appointments must be made in terms of the provisions of the Regulations. The terms and conditions of such services are also required to be prescribed by the Regulations, the logical corollary whereof would be that permanent status is required to be given to a person who is not otherwise an employee of the Board or the Market Committee, as the case may be. It is required to be done in terms of the Regulations only.

38. The Board is entitled to take a decision which is within its powers and functions delineated by the Act. A decision by way of resolution or otherwise cannot be taken by the Board which is beyond the scope and purview of the Act and the Regulations framed thereunder.

39. The Board, therefore, was bound to make a regulation if it intended to put the respondents on its rolls. The High Court, as noticed hereinbefore, however, was of the opinion that it was not necessary so to do. For the reasons aforementioned, we do not agree.

Power of the State to issue directions

40. The State in exercise of the power conferred upon it could issue directions. The power of the State Government is confined to issue directions on questions of policy. It cannot, however, interfere in the day-to-day functioning of the Board. Such policy decision, however, must be in relation

³ (1998) 6 SCC 165 : 1998 SCC (L&S) 1459

STATE OF U.P. v. NEERAJ AWASTHI (*Sinha, J.*)

683

to the activities of the Board under the Act and not dehors the same. (See *Rakesh Ranjan Verma*¹, *Ram Autar*² and *Bangalore Development Authority v. R. Hanumaiah*⁴.)

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41. Such a decision on the part of the State Government must be taken in terms of the constitutional scheme i.e. upon compliance with the requirement of Article 162 read with Article 166 of the Constitution. In the instant case, the directions were purported to have been issued by an officer of the State. Such directions were not shown to have been issued pursuant to any decision taken by a competent authority in terms of the Rules of Executive Business of the State framed under Article 166 of the Constitution.

b

42. In *Punit Rai v. Dinesh Chaudhary*⁵ this Court held: (SCC pp. 222-23, para 42)

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“42. The said circular letter has not been issued by the State in exercise of its power under Article 162 of the Constitution of India. It is not stated therein that the decision has been taken by the Cabinet or any authority authorised in this behalf in terms of Article 166(3) of the Constitution of India. It is trite that a circular letter being an administrative instruction is not a law within the meaning of Article 13 of the Constitution of India. (See *Dwarka Nath Tewari v. State of Bihar*⁶.)”

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43. However, it is not correct that the power of the State to issue directions must be confined to the matters enumerated in sub-section (1) of Section 26-L of the Act. Section 26-L is subject to the provisions of the Act. The functions of the Board enumerated in Section 26-L of the Act are, therefore, not exhaustive. Appointment of servants and officers is also one of the functions of the Board. The Board also has the right to supervise and control the activities of the officers and Market Committees. In that view of the matter, if a policy decision is taken by the Board in regard to the appointment or terms and conditions of the servants, in the event regulations made in this behalf do not contain any provisions, such policy decision must conform to the directions of the State issued in that behalf, if any. The Board further is empowered to do such other things as are specified in clause (x) of Section 26-L of the Act.

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44. The Board, however, in law could not have abdicated its power in favour of the State Government.

45. We are, therefore, of the opinion that the direction by the State was strictly not in accordance with law.

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46. The directions of the State were, therefore, although not binding on the Board, the same cannot be said to be wholly irrational. In his report dated 7-1-1998, the Chairman of the Board sought for advice of the Government. The State had the power of supervision over the activities of the officers of the Board and the Board itself. While granting such advice, the State had

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⁴ (2005) 12 SCC 508 : (2005) 8 Scale 80

⁵ (2003) 8 SCC 204

⁶ AIR 1959 SC 249

684

SUPREME COURT CASES

(2006) 1 SCC

taken into consideration the last segment of employment. The State was not expected to direct the Board and the Board in turn could not have directed the Market Committees to dismiss all the employees who had been illegally appointed. If such directions had been confined to the period 1-4-1996 to 30-10-1997 on following certain basic principles like last-come- first-go basis, we do not see any reason as to why the same would be termed to be arbitrary or discriminatory.

Natural justice

47. If the employees are workmen within the purview of the U.P. Industrial Disputes Act, they are protected thereunder. Rules 42 and 43 of the U.P. Industrial Disputes Rules provide that before effecting any retrenchment in terms of the provisions of Section 6-N of the U.P. Industrial Disputes Act, the employees concerned would be entitled to a notice of one month or in lieu thereof pay for one month and 15 days' wages for each completed year of service by way of compensation. If such a retrenchment is effected under the Industrial Disputes Act, the question of complying with the principles of natural justice would not arise. The principle of natural justice would be attracted only when the services of some persons are terminated by way of a punitive measure or thereby a stigma is attached. [See *Suresh Chandra Verma (Dr.) v. Chancellor, Nagpur University*⁷, SCC para 16; *Karnataka Public Service Commission v. B.M. Vijaya Shankar*⁸, SCC paras 4 and 5 and *State of M.P. v. Shyama Pardhi*⁹, SCC paras 4 and 5.]

48. In *Viveka Nand Sethi v. Chairman, J&K Bank Ltd.*¹⁰ it was held: (SCC p. 345, para 22)

“22. The principle of natural justice, it is trite, is no unruly horse. When facts are admitted, an enquiry would be an empty formality. Even the principle of estoppel will apply. [See *Gurjeewan Garewal (Dr.) v. Dr. Sumitra Dash*¹¹.] The principles of natural justice are required to be complied with having regard to the fact situation obtaining therein. It cannot be put in a straitjacket formula. It cannot be applied in a vacuum without reference to the relevant facts and circumstances of the case.”

49. The High Court, therefore, must be held to have erred in law in holding that the principles of natural justice were required to be complied with.

Directions of the High Court

50. The directions of the High Court, in our opinion, were not justified. It may be that in implementing the advice of the State, some of the officers of the Board became overzealous in terminating services of the employees who were appointed prior to 1-4-1996. The learned Single Judge of the High

7 (1990) 4 SCC 55 : 1991 SCC (L&S) 194 : (1991) 16 ATC 439

8 (1992) 2 SCC 206 : 1992 SCC (L&S) 362 : (1992) 20 ATC 215

9 (1996) 7 SCC 118 : 1996 SCC (L&S) 466 : (1996) 32 ATC 789

10 (2005) 5 SCC 337 : 2005 SCC (L&S) 689

11 (2004) 5 SCC 263 : 2004 SCC (L&S) 747

a Court was not, therefore, correct in describing a decision of the Board as an arbitrary or a discriminatory one. No sufficient or cogent reason has been assigned by the learned Single Judge to arrive at a finding that such period has been picked up out of the hat. With a view to judge the correctness or otherwise of such a decision, it was necessary to consider the backdrop thereof. We have noticed hereinbefore the contents of the correspondence passed between the parties. When the advice of the Chief Minister and/or the State was sought for, the Chief Minister wanted the details of such

b appointments made within the last six months. However, at a later stage, the validity or otherwise of the appointments made by the Directors of the Board on different periods had been taken into consideration. It is only upon application of mind on the facts and circumstances of this case that a direction was issued on 17-3-1999 by the State.

Regularisation

c **51.** The direction of the High Court to frame scheme for regularisation of the employees as also the resolution of the Board to regularise the services of the employees who had completed one thousand days of service must be considered having regard to the aforementioned legal position in mind.

d **52.** When questioned, Mr Chaudhari and Mr Sanghi submitted that regularisation would mean permanence. Regularisation of the services of an employee would, therefore, mean that the persons concerned who had no status within the purview of the definition of “employee” would become employees. Thus, a change in the status would be effected.

e **53.** An attempt to induct an employee without following the procedure would be a back-door appointment. Such back-door appointments have been deprecated by this Court times without number. (See for example *Delhi Development Horticulture Employees’ Union v. Delhi Admn.*¹², SCC para 23.)

54. Even in *State of Haryana v. Piara Singh*¹³ whereupon the learned counsel for the parties relied, it is stated: (SCC p. 134, para 21)

f “21. Ordinarily speaking, the creation and abolition of a post is the prerogative of the executive. It is the executive again that lays down the conditions of service subject, of course, to a law made by the appropriate legislature. This power to prescribe the conditions of service can be exercised either by making rules under the proviso to Article 309 of the Constitution or (in the absence of such rules) by issuing rules/instructions in exercise of its executive power. The court comes into the picture only

g to ensure observance of fundamental rights, statutory provisions, rules and other instructions, if any, governing the conditions of service. The main concern of the court in such matters is to ensure the rule of law and to see that the executive acts fairly and gives a fair deal to its employees consistent with the requirements of Articles 14 and 16.”

h ¹² (1992) 4 SCC 99 : 1992 SCC (L&S) 805 : (1992) 21 ATC 386

¹³ (1992) 4 SCC 118 : 1992 SCC (L&S) 825 : (1992) 21 ATC 403

686

SUPREME COURT CASES

(2006) 1 SCC

55. A three-Judge Bench of this Court upon taking into consideration a large number of decisions in *A. Umarani v. Registrar, Coop. Societies*¹⁴ held that illegal appointments cannot be regularised. It was further held: (SCC p. 126, para 45) a

“45. No regularisation is, thus, permissible in exercise of the statutory power conferred under Article 162 of the Constitution if the appointments have been made in contravention of the statutory rules.”

56. The power to frame regulations is expressly conferred on the Board in terms of Section 26-X of the Act. Such regulations are to be made with the previous approval of the State Government. Indisputably, the State Government by its letter dated 17-3-1999 refused to accord permission in relation thereto. b

57. If no appointment could be made by the State in exercise of its power under Article 162 of the Constitution as the same would be in contravention of the statutory rules, there cannot be any doubt whatsoever that the Board or for that matter the Market Committees cannot make an appointment in violation of the Act and the Regulations framed thereunder. c

58. In *Executive Engineer, ZP Engineering Divn. v. Digambara Rao*¹⁵ it was held: (SCC p. 269, para 20)

“20. It may not be out of place to mention that completion of 240 days of continuous service in a year may not by itself be a ground for directing an order of regularisation. It is also not the case of the respondents that they were appointed in accordance with the extant rules. No direction for regularisation of their services, therefore, could be issued. (See *A. Umarani v. Registrar, Coop. Societies*¹⁴ and *Pankaj Gupta v. State of J&K*¹⁶.) Submission of Mr Maruthi Rao to the effect that keeping in view the fact that the respondents are diploma-holders and they have crossed the age of 40 by now, this Court should not interfere with the impugned judgment is stated to be rejected.” d

(See also *Madhyamik Shiksha Parishad, U.P. v. Anil Kumar Mishra*¹⁷.) e

59. In *Mahendra L. Jain v. Indore Development Authority*¹⁸ it was categorically held: (SCC p. 649, para 19) f

“19. The question, therefore, which arises for consideration is as to whether they could lay a valid claim for regularisation of their services. The answer thereto must be rendered in the negative. Regularisation cannot be claimed as a matter of right. An illegal appointment cannot be legalised by taking recourse to regularisation. What can be regularised is an irregularity and not an illegality. The constitutional scheme which the country has adopted does not contemplate any back-door appointment. A g

14 (2004) 7 SCC 112 : 2004 SCC (L&S) 918

15 (2004) 8 SCC 262 : 2004 SCC (L&S) 1097

16 (2004) 8 SCC 353 : 2004 SCC (L&S) 1125

17 (2005) 5 SCC 122 : 2005 SCC (L&S) 628

18 (2005) 1 SCC 639 : 2005 SCC (L&S) 154 h

a State before offering public service to a person must comply with the constitutional requirements of Articles 14 and 16 of the Constitution. All actions of the State must conform to the constitutional requirements. A daily-wager in the absence of a statutory provision in this behalf would not be entitled to regularisation. (See *State of U.P. v. Ajay Kumar*¹⁹ and *Jawaharlal Nehru Krishi Vishwa Vidyalaya v. Bal Kishan Soni*²⁰.)”

b 60. In *Manager, Reserve Bank of India v. S. Mani*²¹, *Umarani*¹⁴ was followed holding that in law 240 days of continuous service by itself does not give[§] rise to permanence which reason has weighed with the opinion of the learned Single Judge of the High Court.

61. It is, therefore, not correct to contend that only because in the correspondences between the State and the Board the appointments of such persons have been described to be irregular, the same would not mean that they are not illegal.

c 62. In any event, no temporary or permanent status can be granted to an employee by way of regularisation. (See *Union of India v. Gagan Kumar*²² and *State of Maharashtra v. R.S. Bhonde*²³.)

Precedents

d 63. Mr Chaudhari has relied upon a large number of decisions to contend that this Court has directed framing of such schemes.

e 64. In *Surya Narain Yadav v. Bihar SEB*²⁴ the writ petitioners were appointed as trainee engineers pursuant to an advertisement issued therein. Representations had been made to them that after their training was completed, they would be absorbed in regular employment of the Board. Some employees who were getting age-barrred for government employment and had left the Board were told to come back under the temptation of getting permanently employed under the Board. When the Board was reeling under a strike of its employees, these trainee engineers stood by the Board to keep up the generation and distribution of electricity and had been assured of absorption. The Board had decided to absorb them on permanent basis but initially on a probation of two years without conducting any further examination. It was in the aforementioned situation, this Court applied the principles of promissory estoppel and observed that the Board should have regularised the services of the trainee engineers. The Court did not lay down any law that regularisation would be directed despite the fact that appointments had been made in violation of the rules.

f 65. In *Piara Singh*¹³ this Court was beset with the scheme framed by the State to regularise the services of its employees. The Bench did not go into

19 (1997) 4 SCC 88 : 1997 SCC (L&S) 902

20 (1997) 5 SCC 86 : 1997 SCC (L&S) 1119

21 (2005) 5 SCC 100 : 2005 SCC (L&S) 609

§ Ed.: As per para 50, *S. Mani case*.

h 22 (2005) 6 SCC 70 : 2005 SCC (L&S) 803

23 (2005) 6 SCC 751 : 2005 SCC (L&S) 907

24 (1985) 3 SCC 38 : 1985 SCC (L&S) 539

688

SUPREME COURT CASES

(2006) 1 SCC

the question of validity or otherwise of such a scheme. We have, however, noticed hereinbefore that even such a scheme would be impermissible in law.

66. In *Madan Singh v. State of Haryana*²⁵ this Court was dealing with a matter where the State Government had come forward with orders from time to time for absorption of work-charged employees. The Court was of the opinion that the benefits conferred thereunder were available to them. a

67. In *Raj Narain Prasad v. State of U.P.*²⁶ yet again no law has been laid down. No decision other than *Piara Singh*¹³ has been referred to. Before this Court, a scheme was submitted in terms whereof the scheme had undertaken to regularise work-charged employees employed prior to 19-9-1985. This Court besides the proposals made therein issued certain other directions. b

68. Strong reliance has been placed by Mr Chaudhari on *R.N. Nanjundappa v. T. Thimmiah*²⁷ for the proposition that irregular employees can be regularised. Therein it was held: (SCC pp. 416-17, para 26)

“26. The contention on behalf of the State that a rule under Article 309 for regularisation of the appointment of a person would be a form of recruitment read with reference to power under Article 162 is unsound and unacceptable. The executive has the power to appoint. That power may have its source in Article 162. In the present case the rule which regularised the appointment of the respondent with effect from 15-2-1958, notwithstanding any rules cannot be said to be in exercise of power under Article 162. First, Article 162 does not speak of rules whereas Article 309 speaks of rules. Therefore, the present case touches the power of the State to make rules under Article 309 of the nature impeached here. Secondly when the Government acted under Article 309 the Government cannot be said to have acted also under Article 162 in the same breath. The two articles operate in different areas. Regularisation cannot be said to be a form of appointment. Counsel on behalf of the respondent contended that regularisation would mean conferring the quality of permanence on the appointment whereas counsel on behalf of the State contended that regularisation did not mean permanence but that it was a case of regularisation of the rules under Article 309. Both the contentions are fallacious. If the appointment itself is in infraction of the rules or if it is in violation of the provisions of the Constitution illegality cannot be regularised. Ratification or regularisation is possible of an act which is within the power and province of the authority but there has been some non-compliance with procedure or manner which does not go to the root of the appointment. Regularisation cannot be said to be a mode of recruitment. To accede to such a proposition would be to introduce a new head of appointment in defiance of rules or it may have the effect of setting at naught the rules.” c
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25 AIR 1988 SC 2133 : (2006) 1 SCC 693

26 (1998) 8 SCC 473 : 1998 SCC (L&S) 1697

27 (1972) 1 SCC 409 : (1972) 2 SCR 799

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STATE OF U.P. v. NEERAJ AWASTHI (*Sinha, J.*)

689

The said decision has been noticed in various judgments referred to hereinbefore. It instead of helping the respondents goes directly against them.

- a **69.** In *All Manipur Regular Posts Vacancies Substitute Teachers' Assn. v. State of Manipur*²⁸ this Court was confronted with various interim orders passed by the High Court from time to time in several writ petitions. It was observed that if the direct recruitment takes place on one hand and substituted teachers are also directed to be regularised subsequently, it would create an enormous problem for the department to accommodate both the
- b categories of persons and in the aforementioned situation, in exercise of its power under Article 142 of the Constitution, this Court with a view to avoid further litigation and also to avoid seemingly conflicting interim orders issued by the High Court gave certain directions. Such directions having evidently been issued by this Court in exercise of its power under Article 142 of the Constitution do not constitute a binding precedent. Even therein, the
- c scope and ambit of this Court's jurisdiction under Article 142 vis-à-vis existence of the statute and statutory rules and the constitutional mandate contained in Articles 14 and 16 of the Constitution had not been taken into consideration.

- d **70.** On the other hand, in a series of decisions, which we have noticed hereinbefore, this Court has now firmly laid down the law that regularisation cannot be a mode of appointment.

Other contentions

- e **71.** Mr Chaudhari has placed strong reliance upon the provisions of the U.P. Regularisation of Ad Hoc Appointments (on Posts outside the Purview of Public Service Commission) Rules, 1979 purported to have been framed by the State in pursuance of the provisions of clause (3) of Article 348 of the Constitution. Rule 4 of the said Rules reads thus:

“4. *Regularisation of ad hoc appointments.*—(1) Any person who—

- f (i) was directly appointed on ad hoc basis on or before 30-6-1998 and is continuing in service as such on the date of commencement of the Uttar Pradesh Regularisation of Ad Hoc Appointments (on Posts outside the Purview of Public Service Commission) (Third Amendment) Rules, 2001;

(ii) possessed requisite qualifications prescribed for regular appointment at the time of such ad hoc appointment; and

- g (iii) has completed or, as the case may be, after he has completed three years' service shall be considered for regular appointments in permanent or temporary vacancy, as may be available, on the basis of his record and suitability before any regular appointment is made in such vacancy in accordance with the relevant rules or orders.

(2) In making regular appointments under these Rules, reservations for the candidates belonging to the Scheduled Castes, Scheduled Tribes, Backward Classes and other categories shall be made in accordance with the orders of the Government in force at the time of recruitment.

h

690

SUPREME COURT CASES

(2006) 1 SCC

(3) For the purpose of sub-rule (1) the appointing authority shall constitute a Selection Committee.

(4) The appointing authority shall prepare an eligibility list of the candidates, arranged in order of seniority, as determined from the date of order of appointment and if two or more persons are appointed together from the order in which their names are arranged in the said appointment order, the list shall be placed before the Selection Committee along with the character rolls and such other records of the candidates as may be considered necessary to assess their suitability. a

(5) The Selection Committee shall consider the cases of the candidates on the basis of their records referred to in sub-rule (4). b

(6) The Selection Committee shall prepare a list of the selected candidates, the names in the list being arranged in order of seniority, and forward it to the appointing authority.”

72. Apart from the fact that such contention has not been raised before the High Court as also in the counter-affidavit filed before us, the provisions of the said Rules by no stretch of imagination can be said to be applicable in the instant case. c

73. Submission of Mr Chaudhari to take recourse to Regulation 29 of the Establishment Regulations providing that in regard to the matters not specifically covered by the Rules, persons appointed to the services of the Board shall be governed by the Regulations applicable generally to the State Government employees, is misconceived. d

74. The said submission of Mr Chaudhari is furthermore inconsistent with his submissions, as noticed supra, that even in terms of Section 26-M of the Act, the State Government had no power to issue any direction governing appointment in respect of the terms and conditions of the services of the employees. Persons who may be appointed to the services of the Board, furthermore, even according to the learned counsel appearing on behalf of the respondents, are those who are regular employees having been appointed in terms of the provisions of the Act and the Regulations framed thereunder. We have, therefore, no doubt in our mind that Regulation 29 of the Establishment Regulations which is in Chapter VII of the Regulations, refers to only such regulations and orders which would be applicable to the regular employees. e

75. The fact that all appointments have been made without following the procedure, or services of some persons appointed have been regularised in the past, in our opinion, cannot be said to be a normal mode which must receive the seal of the court. Past practice is not always the best practice. If illegality has been committed in the past, it is beyond comprehension as to how such illegality can be allowed to perpetuate. The State and the Board were bound to take steps in accordance with law. Even in this behalf Article 14 of the Constitution will have no application. Article 14 has a positive concept. No equality can be claimed in illegality is now well settled. (See *State of A.P. v. S.B.P.V. Chalapathi Rao*²⁹, SCC para 8; *Jalandhar* f

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STATE OF U.P. v. NEERAJ AWASTHI (*Sinha, J.*)

691

*Improvement Trust v. Sampuran Singh*³⁰, SCC para 13 and *State of Bihar v. Kameshwar Prasad Singh*³¹, SCC para 30.)

- a 76. In the instant case, furthermore, no post was sanctioned. It is now well settled when a post is not sanctioned, normally, directions for reinstatement should not be issued. Even if some posts were available, it is for the Board or the Market Committee to fill up the same in terms of the existing rules. They, having regard to the provisions of the Regulations, may not fill up all the posts.
- b 77. It may be that from the very inception the provisions of the Act and the Regulations framed thereunder had been given a complete go-by. It, furthermore, may be that the Board had adopted a resolution for purported regularisation of the services of its employees and employees of Market Committees appointed prior to 1-10-1988. We have, however, noticed
- c hereinbefore that such a resolution on the part of the Board was beyond its domain. It is also true, as has been contended by Mr Chaudhari and Mr Sanghi, that the power to create posts was with the Board but the Board did not exercise its power; and the competent authorities of the Market Committees proceeded to appoint employees at the sweet will of the
- d authorities concerned without in any way bothering about the provisions of the Act and the Rules framed thereunder. It is interesting to note that the Market Committees claimed themselves to be local authorities for the purpose of obtaining exemption from payment of income tax. The officers of the local authorities had a bounden duty not only to act within the four corners of the statute but having regard to the constitutional scheme in mind. They failed and/or neglected to do so. As appointments had been made
- e de hors the Rules and without following the procedures known in law and in flagrant violation of the constitutional scheme as laid down in Articles 14 and 16 of the Constitution, the appointments although might have been made in exigencies of services, they must be held to be wholly illegal and without jurisdiction. An attempt has been made by the respondents to show that the income of the Market Committees has increased from Rs 1.92 crores to Rs 210.88 crores and the quantum of construction work has also increased
- f from Rs 65.8 crores to Rs 128.4 crores. It has also been suggested that in November 2005, the income has increased in the year 2004-2005 to Rs 400 crores and the annual budget of the Market Committees which has been sanctioned is approximately Rs 350 crores. The availability of funds is not and cannot be a valid ground to make the appointments of persons without proper sanction and creation of posts and cannot be taken to be an excuse to
- g perpetuate illegalities.
78. A contention has been raised by Mrs Dikshit that there was no material before the Government for issuing the impugned instructions insofar as the financial position vis-à-vis the strength of the employees had not been taken into consideration. It is not necessary for us to go into the

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³⁰ (1999) 3 SCC 494

³¹ (2000) 9 SCC 94 : 2000 SCC (L&S) 845

692

SUPREME COURT CASES

(2006) 1 SCC

aforementioned question inasmuch as we are herein concerned with the legality and/or validity of the impugned orders of termination of services and the same having not been done, the appointments of the employees concerned were wholly illegal and without jurisdiction and, thus, void and of no effect. a

Conclusion

79. The upshot of our aforementioned discussions is:

(i) The Board and the Market Committees were bound by the Act, the Rules and Regulations framed thereunder in making appointments. Statutory provisions as also the constitutional requirements were required to be complied with. b

(ii) The Board had no jurisdiction to frame any scheme for regularisation in the face of the statutory regulations operating in the field. Any legislation involving appointment or laying down the conditions of service of the employees would require prior sanction of the State. c

(iii) The State of Uttar Pradesh in exercise of its purported power under Section 26-M of the Act could not have issued the directions as has been done but such a direction cannot be said to be wholly unreasonable.

(iv) The State although could not exercise a statutory power beyond the provisions of the statute, but the same although might have been done under a misconception of law but was not otherwise arbitrary or mala fide. d

(v) Availability of vacancies and/or the funds by themselves would not allow the Market Committees or the Board to make appointments in flagrant violation of the statutory provisions. Although the direction of the State of U.P. which had been acted upon by the Board did not have a statutory backing, the High Court could not have issued a writ of or in the nature of mandamus as the respondent-writ petitioners did not have any legal right. e

(vi) We are not oblivious of the fact that there may be some employees whose services have been terminated without any rhyme or reason. Mr Verma appearing on behalf of the Board has assured us that the Board shall look into the cases of such employees whose termination has been effected beyond the policy decision taken by the State although we do not intend to express any opinion as regards such employees. f

80. We, however, direct the Board and the Market Committees to fill up all existing vacancies strictly in accordance with law as expeditiously as possible and preferably within six months from this date. While doing so, amongst other eligible candidates, the candidature of the employees whose services have been terminated should also be taken into consideration and in the event the appropriate authority of the Market Committees or the Board can relax the age-bar, the same would be done. The respective Market Committees, however, in the meanwhile, if for exigencies of the work, intend to appoint any person, may do so. However, post facto approval therefor g h

MADAN SINGH v. STATE OF HARYANA

693

a should be obtained from the Board. In the offers of appointment which may be issued to such temporary or ad hoc employees it shall be made clear that their appointments would be ad hoc in nature and the same shall be coterminous with the appointment of regular employees.

b **81.** In view of our findings aforementioned, we are of the opinion that the judgment and order dated 11-8-2000 passed by the learned Single Judge which has been upheld by the Division Bench by its order dated 5-9-2000 does not lay down the law correctly and the judgment and order dated 13-11-2000 passed by a Division Bench of the Lucknow Bench of the Allahabad High Court in Writ Petition No. 1093 (S/B) of 1999 lays down the law correctly. In the result, the civil appeal arising out of SLP (C) No. 15797 of 2001 is dismissed and the other civil appeals filed by the Board and the State of Uttar Pradesh as also the civil appeal arising out of SLP (C) No. 15677 of 2003 filed by the Board are allowed. However, there shall be no order as to costs.

[CITED ORDER]

(2006) 1 Supreme Court Cases 693

(BEFORE RANGANATH MISRA AND M.M. DUTT, JJ.)

d MADAN SINGH AND OTHERS . . . Appellants;

Versus

STATE OF HARYANA AND OTHERS . . . Respondents.

Civil Appeals Nos. 655-61 of 1987 with SLP (C) No. 15118 of 1986 and WP No. 301 of 1987, decided on March 17, 1988

e **Service Law — Termination of service — Validity of termination — Work-charged employees, putting in long periods of service, terminated from service — Persons junior to them retained, and fresh recruitment made almost simultaneously to same service — Sustainability of termination — Held, in the facts and circumstances of these present cases, there was no justification for said termination — State Government had come forward with orders from time to time for absorption of persons like parties before Supreme Court in present cases — Taking into account their continuous service, held, benefit conferred under those government orders is available to these persons as well, therefore they are entitled to continue in service — State shall restore them to service and confer upon them benefit indicated in the government order for regularisation of their services**

f *Dharwal Distt. v. State of Karnataka*, WPs Nos. 8307-11 of 1983 disposed of on 17-12-1985, referred to

g Civil appeals and writ petition allowed D-M/A/33751/CL

Chronological list of cases cited *on page(s)*

1. WPs Nos. 8307-11 of 1983 disposed of on 17-12-1985, *Dharwal Distt. v. State of Karnataka*

694d, 694f

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Annexure A-4

Delhi Development Authority

DDA's Adoption of Parks Policy 2019

Proposal for Voluntary Adoption of DDA Parks by Agencies

- *Avsit-* Upgradation and Maintenance of Park
- *Sakal-* Maintenance of Park
- *Devansh-* Maintenance of a Portion of Park
- *Igati-* Facility installation and its maintenance

Landscape and Environment Planning Department

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Contents

1.0	Introduction	3
2.0	Adoption Scheme Types	3
2.1	<i>Avsit</i>	
2.2	<i>Sakal</i>	
2.3	<i>Devansh</i>	
2.4	<i>Igati</i>	
3.0	Eligibility of the Adopting Agency	3
4.0	Eligibility of DDA Parks Available for Adoption	4
5.0	Permissible Facilities	4
6.0	Prescribed Minimum Standards	5
7.0	Duration of Adoption	5
8.0	Competent Approving Authority	6
9.0	Procedure for Adoption	6
9.1	Submission of Proposal	
9.2	Eligibility Verification	
9.3	Approvals	
9.4	Finalization of agreement	
10.0	Monitoring Mechanism	7
11.0	Security Deposit	8
12.0	Agreement	8
13.0	Termination of Agreement	8
14.0	Parks adopted under earlier AOP schemes	9
15.0	Annexures	
	A. Application Format	10
	B. Legal Contract for Maintenance	12
	C. Terms and Conditions	17
	D. Service Level Agreement	21
	E. List of Do's and Don'ts	23
	F. Procedural Flow Chart	24

Any other supporting documents like the ones as mentioned below would be included after due approval from VC, DDA

- Deliverables of Technical Proposal
- Legal Memorandum of Understanding for Construction/ Installation
- Assessment Criteria for quarterly status report
- Format: Quarterly status report to be submitted by monitoring team
- List of supporting documents to be submitted along with application
- On Site Completion Report to be put up for Technical Approval

DDA's Adoption of Parks Policy: 2019

1.0 Introduction

The DDA's Adoption Park Policy, 2019 Scheme envisages adoption of certain DDA parks by willing agencies for development and maintenance, while the land ownership continues to rest with DDA.

2.0 Adoption Scheme Types

The parks are available for adoption under the following four scheme types

2.1 AVSIT: Up-gradation and Maintenance of Park

The infrastructure of the identified park would be upgraded by the adopting agency as per Landscape Plan approved by DDA, and subsequently maintain the same as per prescribed standards.

2.2 SAKAL: Maintenance of Park:

The adopting agency would maintain park that has already been developed by DDA, to match the prescribed standards of maintenance.

2.3 DEVANSH: Maintenance of a Portion of Park:

An identified portion of park, developed by DDA, would be maintained by the agency to match the prescribed standards.

2.4 IGATI: Facility installation and maintenance:

Features like art work installation, public facility, water ATMs, park furniture, swings, dustbins etc. may be installed in the identified park by the adopting agency, and further maintain it as per prescribed standards.

*Names of the schemes have been taken from Sanskrit to provide relent identity to each while reflecting the essence of each scheme as **Avsit**: Total; **Sakal**: Complete;*

***Devansh**: Part of Gods; **Igati**: Installation*

3.0 Eligibility of the Agency desirous of Adopting a DDA Park:

An agency can adopt a park- full with upgradation, complete, partial or installation -as prescribed in para 2.0 above, under the DDA Adoption Policy, 2019, if it fulfills any of the following criterion: –

- The agency is a Corporate Body or Company registered under the Companies Act 2013
- The agency is a Societies duly registered under the Societies Registration Act 1860.
- The agency is a Public Sector Undertaking, Authority/ Board constituted under the Government.
- Trust registered under Indian Trust Act 1882
- Residents Welfare Associations duly registered under the Societies Registration Act 1860 or DDA Management and Disposal of Housing Estates Regulations, 1968.

4.0 Eligibility of DDA Parks Available for Adoption

DDA Parks will be available for adoption for maintenance with up-gradation, only maintenance, maintenance of a portion of all DDA greens larger than three acres. RWAs may be offered parks of any size that are in the walkable vicinity of their own residential complexes only. Clause of minimum size criteria of 3 acres will not be applicable to Public Sector Undertaking, Authorities / Boards constituted under the Government.

5.0 Permissible Facilities in the Adopted Park

- 5.1 Technical Landscape proposal of up-gradation of the park, if not already upgraded, will be approved by DDA as per AOP Policy, 2019.
- 5.2 The fact that the park is being maintained by the adopting agency can be displayed near all entrances, on a display board of 560mmx840mm. The display shall clearly specify that the park belongs to DDA, and the agency has adopted the same.
- 5.3 The agency will have the right to fix sign boards of 100mm x150mm size on installation like dustbin, furniture, shelter, toilets within the park. The signage shall clearly specify that the agency has adopted/ is maintaining the installation.
- 5.4 The agency is permitted to use the adopted Park for organizing public events like flower shows, etc. with the prior approval of DDA for a maximum period of 20 days in a year. The agency shall seek prior approval of DDA for any fee being charged for such an event, if any. Cultural activities would be allowed only at locations with open air amphitheaters. The agency shall not permit the adopted Park to be used for organizing private functions.
- 5.5 Provision for upkeep and maintenance of adequate number of toilets by the adopting agency may be ensured.
- 5.6 Provision for adequate temporary kiosks, yoga spaces and children play areas be made available by the adopted agency.
- 5.7 DDA will have the right to access the premises at all times and organize any of its official activities in the adopted park or portion of the park. Unhindered access to public facilities for the general public is to be ensured.
- 5.8 Any new installation or infrastructure enhancement proposed by the agency in the adopted park shall be taken up by the agency after prior approval of DDA.
- 5.9 Facilities or installations open for adoption under *Devansh* and *Igati* Schemes may not be bound or separated from the rest of the park. However, sign boards specifying the adoption of the entity can be displayed.
- 5.10 Examples for Partial adoption under *Devansh* (only maintenance) are maintenance of existing toilet, repair of existing pathways, upkeep of specific plantation like rose garden, bougainvillea garden, seasonal, etc.; Water body cleaning; Waste management system; etc. Examples for Partial adoption under *Igati*: Installation/ Construction and Maintenance of portion of park are Public facility; Open gym; Play equipment; Park furniture: benches, dustbins and shelters; Sewage Treatment Plant; Drinking water ATMs; Specific plantation: rose garden, bougainvillea garden, seasonal, etc.; Public Art;

Lights; Water harvest mechanism; Water remediation. These lists are only suggestive and not exhaustive.

6.0 Prescribed minimum standards

Besides the development as per the satisfaction of DDA, the agency shall maintain the park to ensure the following.

- 6.1 Pathways, planters, toe walls are maintained and timely repaired, if required.
- 6.2 Regular and timely disposal of garbage and other wastes from the park as per prevalent MCD norms.
- 6.3 No labor hutments or any other un-wanted structure to exist in the park.
- 6.4 Install and maintain 01unit open multi gymnasium.
- 6.5 Provide park furniture @01 shelter/05 acres, 04 benches/acre and 04 dustbins/acre of innovative ecofriendly material.
- 6.6 Provision and upkeep of zero waste toilet facilities near major entrances, with regular cleaning and maintenance as per required schedule.
- 6.7 Drinking water facilities to be made available near entrances and as per requirement.
- 6.8 Number of Malis deputed on site should be at least @01 Mali/acre
- 6.9 Water economic plantation to be implemented.
- 6.10 Rain water as surface run off to be harvested wherever possible.
- 6.11 The high maintained lawn, shrubbery and tree plantation to be logically proportioned as per approved planting plan.
- 6.12 Dedicated seasonal beds to be made available as per design and at least two seasonal changes to be ensured.
- 6.13 Lighting to accommodate solar lighting distributed as approved lighting scheme.
- 6.14 Proposal for regular irrigational methods to be made and implemented.
- 6.15 Measures for security of the parks be made.
- 6.16 Public art installation to be encouraged.
- 6.17 Provision of temporary Kiosks for sale of relevant commodities may be explored.

7.0 Duration of Adoption

The Park would be available for adoption initially for a period of 03 years, after which adoption would be extended further in installments of 03 years with the due approval of DDA. The DDA would base the extension on the quarterly reports by the concerned monitoring team constituted by DDA. The park will be given for adoption under the policy for a maximum period for 12 years or till it is under the jurisdiction of DDA in case of handing over of park to Local Authorities, whichever is earlier.

8.0 Competent Approving Authority

The proposals would be reviewed and approved by a Committee constituted by Vice Chairman, DDA comprising of the following officers:

i	Principal Commissioner, Landscape and Horticulture	Chairperson
ii	Additional Commissioner, Landscape	Member
iii	Director, Landscape	Member, Secretary
iv	Director, Horticulture (South-East)	Member
v	Director, Horticulture (North-West)	Member
v	Representative of Accounts Department	Member
vi	Representative of Legal Department	Member

9.0 Procedure for Adoption

9.1 Submission of Proposal

Any eligible agency, willing to adopt a DDA park under this scheme, may submit their initial proposal as per application format provided, along with the requisite supporting documents. The application may be submitted on the DDA official website. (LINK) The application received would be processed by the office of Member Secretary, AOP / Director (Landscape), Landscape & Environmental Planning Department, 11th floor, Vikas Minar, New Delhi-110002.

9.2 Eligibility Verification

The application received would be referred by Member Secretary, AOP to Horticulture Department for joint site inspection with agency, site verification and recommendations; to Planning Department for land use verification; and Legal Cell for verification of agency documents with regards to its eligibility.

9.3 Approvals

The observation of the Horticulture, Planning and Legal Department would be put up for the review of the Committee by Member Secretary, AOP for an initial in-principal approval of the proposal.

- 9.3.1 In case of *Sakal* and *Devansh* schemes, where only maintenance is to be taken up by the agency, approval would be granted by the DDA, based on the recommendations of Horticulture department, subject to eligibility verification from Planning and Legal branches.
- 9.3.2 In case of *Avsit* and *Igati* Schemes, where the up-gradation and/or installation is also being done by the agency, approval would be granted as three stages
- Initial approval, as explained in para above, based on the recommendations of Horticulture department, subject to eligibility verification from Planning and Legal branches. If approved, the agency would be issued a letter of initial approval.
 - Subsequently, the agency would submit their technical and maintenance proposals for the up-gradation and/or installation at the office of Member Secretary, AOP Director (Landscape), Landscape & Environmental Planning Department, 11th floor, Vikas Minar, New Delhi-110002. The proposal deliverables are attached.

- iii. The design proposal would be reviewed by a technical sub-committee constituted by the main Committee for that particular project. For smaller installations, the sub-committee would give its recommendations to the Committee for Technical Approval. However, in case of larger projects, the sub-committee would get the proposals approved by the DDA Screening Committee before it recommends it to the Committee for approval. The Committee's decision of Technical Approval to the project in both cases would be conveyed to the agency, subsequent to which Horticulture Department can hand over the site to the agency through a Memorandum of understanding and the agency can start construction on site. The timelines of completion of project would be based on the proposal and would form a part of the Memorandum of Understanding.
- iv. Concerned Deputy Director, Landscape and Horticulture would visit the ongoing project as and when required, in co-ordination of the agency to ensure development as per the approved plan. The final agreement of adoption would be subject to timely completion of construction of project as per approved design and recommendation of concerned Deputy Director, Landscape and Deputy Director, Horticulture, after commissioning of the project.

9.4 Finalization of agreement

- 9.4.1 In case of *Avsit* and *Igati* Schemes, where two levels of technical approvals are required, a letter of technical approval would be issued by Member Secretary to the agency authorizing the agency to go ahead with the on-site construction. A Memorandum of Understanding would be signed between the Horticulture and agency after the Technical Approval. Further, when the project is commissioned after completion of construction, the legal contract would be signed between the Horticulture Department and the agency.
- 9.4.2 For *Sakal* and *Devansh* schemes, where only maintenance is being proposed by the agency, the agreement would be signed between Horticulture Department and the agency.

10.0 Monitoring Mechanism

- 10.1 A three-member team of Concerned Deputy Director, Landscape; Deputy Director, Horticulture and Executive Engineer will review the maintenance of the adopted park and submit a quarterly status report, certified by concerned Director Horticulture to Member Secretary. The report should be supported by relevant on-site photographs.
- 10.2 The quarterly status report would be based on criterion of assessment formulated by DDA.
- 10.3 Regular monthly supervision of the adopted park by concerned SO, Horticulture will continue besides the adoption mechanism.

- 10.4 The concerned SO, Horticulture will be responsible to keep a watch regarding Terms & Conditions of the Agreement being strictly adhered to by the agency and any violation on the part of the agency shall be reported to the concerned AD or DD, Horticulture to be brought to the notice of DDA. Reporting of any irregularity noticed or public complaint may be independent of the quarterly report.
- 10.5 The adopted park would be monitored through a Control-cum-Monitoring Center governed by Horticulture Department through closed network cameras.

11.0 Security Deposit

- 11.1 The adopting agency shall deposit interest free security amount, calculated as per rule and conveyed by Member Secretary after approval of the DDA, through DDA's on-line payment portal. The security amount shall be refunded back to the agency once the period of agreement has expired and park has been handed over back to DDA to the satisfaction of the concerned Deputy Director, Horticulture. In case of any damage or termination of the agreement, the security amount shall be forfeited. For *Avsit and Sakal* Schemes, the security amount shall be calculated as follows:

Up to 1 hectare of park	Rs.1.00 lac
Park with area 01to10 hectare	Rs. 0.50 lac per hectare + 1.00 lac
Park with area more than 10 hectare	Rs. 0.25 lac per hectare + Rs. 5.50 lac

- 11.2 Security Deposit for *Devansh* and *Igati* schemes would be case specific and would be decided by the DDA according to the scale of the proposal.
- 11.3 In case of RWA's, it would be mandatory for the Association to operate through a separate bank account for matters of the adopted park.
- 11.4 In case of Corporates, the CSR fund can be operated for this purpose.
- 11.5 The agency has to provide financial commitment for one-time up-gradation of the park and its subsequent maintenance as applicable.

12.0 Agreement

The agreement, as per applicable format for specified Scheme, would be executed between the authorized representative of the adopting agency and the concerned Deputy Director, Horticulture.

13.0 Termination of Agreement

- 13.1 In any event of non-adherence to any clause of terms and condition of agreement, a Show Cause Notice will be issued by DDA through the concerned Deputy Director, Horticulture. 10% of amount of security will be fined, if the issues dealt in Show Cause Notice are not attended to in 15 days' time.
- 13.2 DDA reserves the right to terminate the agreement after issuing a Show Cause Notice through the concerned Director, Horticulture; this being the exit clause.
- 13.3 In case of termination or on expiry of agreement, all assets (movable and immovable) with lock, stocks and barrel, including the installations made by the adopting agency, shall vest in DDA.

13.4 In case of any damage or upon termination of the agreement, security amount shall be forfeited.

14.0 Parks adopted under earlier AOP schemes

All Adoption cases would now fall under Adoption of Park, 2019 scheme and would be reviewed accordingly to comply with norms. The total duration of adoption would be considered afresh as per the new policy. Agency which has adopted a park under earlier scheme would be considered as fresh applicant under new Policy even though they have completed 12 years as per earlier policy.

Annexure

DDA's Adoption of Parks 2019
APPLICATION FORMAT

DETAILS OF AGENCY DESIROUS OF ADOPTING THE DDA GREEN/ PARK

1. Name of Adopting Agency:
2. Registered Address:
3. Registration Number:
4. Type of Adopting Agency (Please tick any one of the following)

Sr.	Type of Agency	Tick any one	Registration Certificate (Attach attested copy)
1	Corporate Body or Company registered under the Companies Act 2013		
2	Societies duly registered under the Societies Registration Act 1860.		
3	Public Sector Undertakings		
4	Trust registered under Indian Trust Act 1882		
5	Residents Welfare Associations duly registered under the Societies Registration Act or DDA Management and Disposal of Housing Estates Regulations, 1968		

5. Brief note on activities of the agency including similar activities, like maintaining park or green areas, performed by the agency, if any (*not more than 500 words*)
6. Annual balance sheet of adopting agency for last three financial years. (*attach a copy*)
7. Financial commitment for one-time development, its subsequent up gradation and maintenance.

DETAILS OF PARK CONSIDERED FOR ADOPTION

1. Name of the DDA Park
2. Location of the Park (*please attach key plan*)
3. Area of Park in Acres
4. Adjacent boundaries of the Park
 - a. Northern
 - b. Southern
 - c. Eastern
 - d. Western

5. In Case of adoption by RWA

Is the park located in the vicinity of your residential Society? (Yes/No)

6. Type of Adoption proposed (Please tick any one of the following)

Up-gradation and Maintenance of Park	Avsit	
Maintenance of Full Park	Sakal	
Maintenance of a Portion of Park	Devansh	
Facility installation and its maintenance <i>Please specify Installation proposed</i>	Igati	

7. Concept Idea explaining the intent, one-year Action Plan and supporting site photographs of existing conditions

8. Advertisement proposal, if any

9. Maintenance schedule

10. Security proposal and schedule

11. Detailed inventory as on date of application

- a. Boundary wall (length and description)
 - b. Pathway (length and material)
 - c. Number and Location of Entry Gates
 - d. Water source
 - e. Drinking water facilities, if any
 - f. Toilet facilities, if any
 - g. Open multi gymnasium, if any
 - h. Shelters
 - i. Dustbins
 - j. Planters (area and material)
 - k. Park furniture, if any
 - l. Light fixtures and numbers
 - m. Signage
 - n. Number of mature trees
 - o. Status of greenery
 - p. Any other features
 - q. Encroachments, if any
12. Total Station Survey copy, at a minimum scale of 1:500, complete with information to be included in the inventory.

Authorized Signatory
for the agency
Date

DDA, Adoption of Parks 2019
LEGAL CONTRACT FOR MAINTENANCE

AGREEMENT

This Agreement is made and executed at New Delhi on between 'Delhi Development Authority' through its authorized signatory, party of the First part (hereinafter referred to as "DDA").

and

M/s a Corporation / Company / PSU / RWA incorporated under the..... having its registered office at through its authorized signatory, party of the Second Part (hereinafter referred to as "Adopting Agency").

The expression Party of the First Part and Second Part shall mean and include their respective heirs, successors, assigns, etc.

- A. Whereas the second party desires to adopt DDA green/ park at herein referred as M/o and D/o land. In this regards approval on file No. has been accorded by the first party. Accordingly the second party has submitted a Demand Draft/ Pay Order No..... dated....., for Rs., drawn on bank. The original of agreement shall be retained by DDA and adopting agency shall be given a copy of the same.
- B. That in case of any breach or violation of any terms and conditions of this agreement for the maintenance and development of the said green/ park, the agreement shall stand terminated and the decision of VC/DDA or any other officer empowered by him in this behalf shall be final. However, before the initiation of termination proceedings the adopting agency would be given Show Cause Notice.
- C. That in the event of termination of agreement prior to agreed period or on expiry of agreement period, all assets (moveable and immovable) lock, stocks, and barrel etc., shall vest in DDA.
- D. That if at any point of time during the validity/ existence of the agreement some issue arises which are not mentioned in the Terms & Conditions of the Agreement, then for those residual action/ issues, the Committee constituted for the purpose will take appropriate decision and the decision of the Committee shall be final and binding upon the adopting agency.

The agreement is being executed on the following terms & conditions:

1. That the park (.....specify area) shall be given for adoption to the adopting agency for its upkeep and maintenance, while the ownership continues to rest with DDA.
2. That the adopting agency shall develop and maintain the said DDA green/ park to the satisfaction of competent authority of DDA or the Committee as per the terms and conditions contained in this agreement.

3. That the adopting agency shall not utilize or permit to be utilized the said DDA green/ park for any other purpose whatsoever except to maintain it as a green/ park. The agency shall ensure that no encroachment is made in the green/ park.
4. That the ownership, control, possession and supervision of said DDA green/ park shall remain with DDA and the adopting agency shall prominently display that the said park is a DDA park. The fact that the park has been permitted to be maintained by the concerned agency can be displayed at a specified place restricted to the main portion after approval of the Committee. The adopting agency will only have the right to put up hoarding/ display board, of specific size and inscription.
5. The agency shall not have any right, title or interest in the greeneries of the said DDA green/ park, nor shall it ever be deemed to have possession or be considered as being conferred with any right, title or interest in respect of, over, in or upon the said greeneries of the park, except the permission to maintain and develop the said park for a specified period.
6. That the adopting agency shall bear the entire costs and expenses of the development and maintenance of the said DDA Park.
7. The agency is permitted to use the adopted Park for organizing events like flower shows, etc., with the prior approval of DDA for a maximum period of 20 days in a year. The agency shall seek prior approval of DDA for any fee being charged for such an event, if any. Cultural activities may permitted at locations with open air amphitheater.
8. DDA will have the right to access the premises and organize any of its official activities in the adopted park or portion of the park. In no case will parking in parks be handed over to the agency.
9. That the said DDA green/ park shall be open to the general public without any restraint, entry fee or prohibition whatsoever. The agency shall use the land of the said DDA green/ park only for development and maintenance of the green/ park and shall not transfer the maintenance and development of the green/ park to any other person, society, company, department, organization etc. The agency shall not enter into sub-agreement for maintenance etc. with others.
10. The agreement will initially be for a period of 03 year, after which it can be extended further in installments of 03 year after the approval of the Committee. Outer limit of adoption of all cases shall be 12 years. The total duration of old adoption would be considered afresh as per the new policy.
11. A three-member team of Concerned Deputy Director, Landscape, Deputy Director, Horticulture and Executive Engineer will review the maintenance of the adopted park and submit a quarterly status report, certified by the concerned Director, Horticulture to Member Secretary. The report would be supported by relevant on-site photographs. Such status reports will also be considered while examining the case for further extension of the agreement. *The S.O. (Hort.)/AD supervision in the park will be there even after handing*

over the park to the adopting agency. The concerned AD/SO Hort. will be responsible to keep the watch that the Terms & Conditions of the Agreement are strictly

adhered to by the adopting agency and any violation on the part of adopting agency shall be reported to the DD Hort./ Committee for initiating necessary action. The monitoring of the adopted park will also be done through web camera and other IT enabled mechanism. Non-compliance on the part of DDA officials shall be viewed seriously and due action will be taken against such erring officers/officials.

12. The concerned AD/SO Hort. will be responsible to keep the watch that the Terms & Conditions of the Agreement are strictly adhered to by the adopting agency and any violation on the part of adopting agency shall be reported to the DD Hort./ Committee for initiating necessary action.
13. That in the event of termination of agreement, prior to agreed period or on expiry of agreement period, all assets (movable and immovable) lock, stocks and barrel, including the installations made by the adopting agency, shall vest in DDA.
14. That the agency shall not remove or cut any plant, tree etc. including any other item from the said DDA green/ park.
15. That in case the agency wants to install any infrastructure facilities like tube well, pipeline, etc., the agency shall not do so without prior written permission of the Committee and the expenses thereof shall be borne by the agency itself. The agency shall not claim any money, compensation or loss for the same at the time of expiry or termination of the agreement and the same shall become the property of DDA.
16. That the agency shall bear the electric, water and other expenses for running and operating the green/ park and pay the bills directly to the authorities concerned in the name of DDA.
17. That the agency shall not be entitled to allow any other person/ agency to develop the said green/ park or any part thereof. In the event of winding up of the agency or agency becoming insolvent or dissolved, if it is a partnership firm/ company, the agreement for maintenance and development of green/ park shall stand terminated automatically and the transferees or assignees etc. of the agency shall not be entitled to continue with the development and maintenance of the said DDA green/ park and shall not claim any right, title or interest in the said DDA green/ park.
18. That the agency shall be responsible for all damages or loss of property of the said DDA green/ park and shall be liable to make good any loss or damages that may be sustained by DDA, except those due to normal wear and tear or such as caused by storms, earthquake or any other natural calamity beyond its control. The decision of the Vice Chairman, DDA or any other officer authorized by him in this behalf, with regard to the extent and quantum of compensation to be paid to DDA, shall be final and binding upon the agency.

19. That all disputes and differences arising out of or in any way touching or concerning the agreement, regarding maintenance and development of the said DDA green/ park otherwise herein before provided for shall be referred to sole arbitrator to be appointed by Vice Chairman, DDA or his nominee in accordance with the provisions of Arbitration and Conciliation Act, 1996 (as amended up to date). The award of the arbitrator so appointed shall be final and binding upon the parties.
20. That the agency shall also abide by all the instructions and orders issued by DDA from time to time.
21. While development and maintenance of greens/ parks, the adopting agency shall comply with the bye-laws/ rules/ regulations/ Acts relating to the subject matter and shall not violate any order/ directions of the Hon'ble Supreme Court, High Court, NGT, etc. If the agency violates any such orders/ directions, they will be subjected to the appropriate necessary action as per existing rules/ orders/ guidelines governing the issue.
22. That in case the agency wants permission to develop and maintain only a part of the said DDA green/ park, then the part park shall not have any separate entry thereof.
23. The interest free security deposit from the agency shall be deposited in form of demand draft/ pay order in the name of Delhi Development Authority and shall be refunded on expiry of the period of agreement after peaceful handing over of the green/ park to DDA to the satisfaction of the concerned officer. **In case of any damage or upon termination of the agreement, security shall be forfeited.** The security amount to be deposited by the agency will be calculated as follows:
- Up to 1 hectare - Rs. 1.00 lac
 - 1 hectare to 10 hectare - Rs. 0.50 lac per hectare + 1.00 lac
 - More than 10 hectare- Rs. 0.25 lac per hectare + Rs. 5.50 lac
- That in case the agency wants permission to develop and maintain only a part of the said DDA green/ park, then the part park shall not have any separate entry thereof.
24. **In any event of non-adherence to any clause of Terms and Conditions of Agreement by adopting agency, a Notice will be issued through the concerned Deputy Director (Hort.). 10% of amount deposited as security will be forfeited, if the issues raised in Notice are not addressed/ resolved in 15 days' time by the adopting agency. DDA reserves the right to terminate the agreement after issuing a Show Cause Notice through the concerned Deputy Director (Horticulture), this being the exit clause.**
25. That the stamp duty payable for the execution of this agreement of maintenance and development of the said DDA green/ park shall be borne by the agency and the DDA shall in no case be liable for the same.
26. That the agency shall not use the flowers, fruits, plants etc. from the green/ park for sale or for any commercial use and agency is responsible to keep the green/ park free from all encroachments/ encumbrances/ misuse etc.

27. That DDA will not be responsible or liable for paying any compensation or damages to the agency in case of any loss caused by theft, fire and natural calamities, riots or for any other reason whatsoever. The DDA shall also be free to remove or clean the land from all the features created by the agency on termination of the agreement.
28. That DDA shall have no liability (civil or criminal) in respect of any claim of third person against the agency in connection with development and maintenance of the said DDA green/ park.
29. That DDA shall have right to post its *chowkidars*/supervisors in the said DDA green/ park at its discretion and its officers/ authorized representatives shall have access to the said DDA green/ park or any part thereof at all hours and agency shall have no objection whatsoever for the same.
30. That DDA shall be free to use the said DDA green/ park for any purpose whatsoever and the agency shall not raise any objection to it on any grounds whatsoever.
31. That DDA shall be competent to dispose off or sell the timber, trees and other forest produce of the said DDA green/ park, being the owner thereof.
32. Besides the development and maintenance of the park, the agency shall
 - Maintain the pathways, planters, toe walls, etc.
 - Regularly remove garbage and other wastes.
 - Ensure no labor hutments or any other un-wanted structure in park.
 - Provide dustbins and toilet facilities with regular maintenance as per approval.
 - Ensure cleaning and maintenance of new and existing toilets as per approved schedule.
 - Provision of temporary Kiosk for sale of relevant commodities as per approval
 - Install 01 unit open multi gymnasium as per approval.
 - Provide for Yoga spaces and adequate Children Play Areas.
 - Provide park furniture @01 shelter/05 acres, 06 benches/acre and 04 dustbin/acre as per approved sample.

For Delhi Development Authority
Authorized Signatory

For Agency
Authorized Signatory

Witness:

1. *Signature:*
Address
I.D.Proof
2. *Signature:*
Address
I.D.

Annexure

DDA, Adoption of Parks 2019
TERMS AND CONDITIONS

1. That the adopting agency shall develop and maintain the said DDA green/ park to the satisfaction of competent authority of DDA or the Committee as per the terms and conditions laid herein under.
 Adoption to be offered under two sub-heads – “Adoption of Complete Park” or “Partial Adoption of specific facilities within a Park.”

2. That the agency shall not utilize or permit to be utilized the said DDA green/ park for any other purpose whatsoever except to maintain it as a green/ park. The agency shall ensure that no encroachment is made in the green/ park.

In partial modification, adopting agency will have the right to put up the hoarding / display board with a specific size of inscription on installation like dustbin / furniture / shelter / toilet as per approval by the Committee.

3. That the ownership, control, possession and supervision of said DDA green/ park shall remain with DDA and the agency shall prominently display that the said park is a DDA park. The fact that the park has been permitted to be maintained by the concerned agency can be displayed at a specified place restricted to the main portion after approval of the Committee. The adopting agency will only have the right to put up hoarding/ display board, of specific size.
4. The agency shall not have any right, title or interest in the greeneries of the said DDA green/ park, nor shall it ever be deemed to have possession or be considered as being conferred with any right, title or interest in respect of, over, in or upon the said greeneries of the park, except the permission to maintain and develop the said park for a specified period.
5. That the agency shall bear the entire costs and expenses of the development and maintenance of the said DDA Park.
6. The agency is permitted to use the adopted Park for organizing events like flower shows, cultural activity, etc. with the prior approval of DDA for a maximum period of 20 days in a year. The agency shall seek prior approval of DDA for any fee being charged for such an event, if any.
7. DDA will have the right to access the premises and organize any of its official activities in the adopted park or portion of the park.
8. That the said DDA green/ park shall be open to the general public without any restraint, entry fee or prohibition whatsoever. The agency shall use the land of the said DDA green/ park only for development and maintenance of the green/ park and shall not transfer the maintenance and development of the green/ park to any other person, society, company, department, organization etc. The agency shall not enter into sub-agreement for maintenance etc. with others.

9. The agreement will initially be for a period of 03 year, after which it can be extended further in installments of 03 year after the approval of the Committee. Outer limit of adoption of all cases to be 12 years. The total duration of adoption would be considered afresh as per the new policy.
10. Deputy Director, Horticulture will review the maintenance of the said DDA green/ park at a regular interval of 06 months and submit the status report to the Committee after certification by the concerned Director, Horticulture. Such status reports will also be considered while examining the case for further extension of the agreement.
11. *The S.O. (Hort.)/AD supervision in the park will be there even after handing over the park to the adopting agency.* The concerned AD/SO Hort. will be responsible to keep the watch that the Terms & Conditions of the Agreement are strictly adhered to by the adopting agency and any violation on the part of adopting agency shall be reported to the DD Hort./ Committee for initiating necessary action. The monitoring of the adopted park will also be done through web camera and other IT enabled mechanism. Non-compliance on the part of DDA officials shall be viewed seriously and due action will be taken against such erring officers/officials.
12. That in the event of termination of agreement, prior to agreed period or on expiry of agreement period, all assets (movable and immovable) lock, stocks and barrel, including the installations made by the adopting agency, shall vest with DDA.
13. That the agency shall not remove or cut any plant, tree etc. including any other item from the said DDA green/ park.
14. That in case the agency wants to install any infrastructure facilities like tube well, pipeline, etc., the agency shall not do so without prior written permission of the Committee and the expenses thereof shall be borne by the agency itself. The agency shall not claim any money, compensation or loss for the same at the time of expiry or termination of the agreement and the same shall become the property of DDA.
15. That the agency shall bear the electric, water and other expenses for running and operating the green/ park and pay the bills directly to the authorities concerned in the name of DDA.
16. That the agency shall not be entitled to allow any other person/ agency to develop the said green/ park or any part thereof. In the event of winding up of the agency or agency becoming insolvent or dissolved, if it is a partnership firm/ company, the agreement for maintenance and development of green/ park shall stand terminated automatically and the transferees or assignees etc. of the agency shall not be entitled to continue with the development and maintenance of the said DDA green/ park and shall not claim any right, title or interest in the said DDA green/ park.
17. That the agency shall be responsible for all damages or loss of property of the said DDA green/ park and shall be liable to make good any loss or damages that may be sustained by DDA, except those due to normal wear and tear or such as caused by storms, earthquake or any other natural calamity beyond its control. The decision of the Vice Chairman, DDA or any other officer empowered by him on his behalf, with regard to the extent and quantum of compensation to be paid to DDA, shall be final and binding upon the agency.

18. That all disputes and differences arising out of or in any way touching or concerning the agreement, regarding maintenance and development of the said DDA green/ park otherwise herein before provided for shall be referred to sole arbitration by Vice Chairman, DDA or his nominee. There will be no objection to any such appointment, that the arbitrator so appointed is a government servant or that he had to deal with the matter of which this indenture refers and that during the course of his duties as such government servant has expressed view on all or any other matters in dispute or differences. The award of the arbitrator so appointed shall be final and binding upon the parties.
19. That the agency shall also abide by all the instructions and orders issued by DDA to it from time to time.
20. While development and maintenance of greens/ parks, the agency shall comply by-laws/ rules/ regulations/ acts relating to the subject matter and shall not violate any order/ directions of the Hon'ble Supreme Court, High Court, NGT, etc. If the agency violates any such orders/ directions, they will be subjected to the appropriate necessary action as per existing rules/ orders/ guidelines governing the issue.
21. That in case the agency wants permission to develop and maintain only a part of the said DDA green/ park, then the part park shall not have any separate entry thereof.
22. The interest free security deposit from the agency shall be deposited in form of demand draft/ pay order in the name of Delhi Development Authority and shall be refunded on expiry of the period of agreement after peaceful handing over of the green/ park to DDA to the satisfaction of the concerned officer. **In case of any damage or on termination of the agreement, security shall be forfeited.** The security amount to be deposited by the agency will be calculated as follows:
- Up to 1 hectare - Rs. 1.00 lac
 - 1 hectare to 10 hectares - Rs. 0.50 lac per hectare + 1.00 lac
 - More than 10 hectare- Rs. 0.25 lac per hectare + Rs. 5.50 lac
 - In case of RWAs, it would be mandatory for the association to operate through a separate bank account for matters of the adopted park. In case of Corporates, the bank account could be governed as its CSR fund.
 - The agency adopted has to provide financial commitment for one-time development of the park and its subsequent upgradation and maintenance.
23. **In any event of non-adherence to any clause of terms and condition or agreement, a Show Cause Notice will be issued through the concerned Deputy Director (Hort.). 10% of amount deposited as security will be fined, if the issues dealt in Show Cause Notice are not adhered to in 15 days' time. DDA reserves the right to terminate the agreement after issuing a Show Cause Notice through the concerned Deputy Director (Horticulture), this being the exit clause.**
24. That the stamp duty payable for the execution of the agreement of maintenance and development of the said DDA green/ park shall be borne by the agency and the DDA shall in no case be liable for the same.

25. That the agency shall not use the flowers, fruits, plants etc. from the green/ park for sale or for any commercial use and agency is responsible to keep the green/ park free from all encroachments/ encumbrances/ misuse etc.
26. That DDA will not be responsible or liable for paying any compensation or damages to the agency in case of any loss caused by theft, fire and natural calamities, riots or for any other reason whatsoever. The DDA shall also be free to remove or clean the land from all the features created by the agency on termination of the agreement.
27. That DDA shall have no liability (civil or criminal) in respect of any claim of third person against the agency in connection with development and maintenance of the said DDA green/ park.
28. That DDA shall have right to post its *chowkidars*/supervisors in the said DDA green/ park at its discretion and its officers/ authorized representatives shall have access to the said DDA green/ park or any part thereof at all hours and agency shall have no objection whatsoever for the same.
29. That DDA shall be free to use the said DDA green/ park for any purpose whatsoever and the agency shall not raise any objection to it on any grounds whatsoever.
30. That DDA shall be competent to dispose off or sell the timber, trees and other forest produce of the said DDA green/ park, being the owner thereof.
31. Besides the development and maintenance of the park, the agency shall
 - Maintain the pathways, planters, toe walls, etc.
 - Regularly remove garbage and other wastes.
 - Ensure no labor hutments or any other un-wanted structure is permitted.
 - Provide dustbins, drinking water and toilet facilities as per approval.
 - Ensure cleaning and maintenance of toilets as per approved schedule.
 - Provision of temporary Kiosk for sale of relevant commodities as per approval
 - Install 01 unit open multi gymnasium as per approval.
 - Provide park furniture @01 shelter/05 acres, 06 benches/ acre and 04 dustbins/ acre as per approved sample.

Annexure

DDA, Adoption of Parks 2019

SERVICE LEVEL AGREEMENT

1. The adopting agency shall submit the list of inventories prepared by a joint inspection with Deputy Director, Horticulture or his nominee at the time of taking over the green/ park for adoption.
2. The adopting agency shall clean the green/ park adopted by it within 15 days of taking over the green/ park for adoption.
3. The adopting agency shall maintain all greens/ parks, including watering of all trees, plants, shrubs and grass within one month of taking over the green/ park for adoption and thereafter.
4. The adopting agency shall plant and maintain suitable seasonal plants every three months, and prepare an inventory of the said plantation to be submitted to the concerned Dy. Director (Hort.).
5. The adopting agency shall repair the boundary wall, swings, shelter, benches, and lights within one month of taking over the green/ park for adoption and execute all the features as proposed in their application and get it approved by the Committee within 06 months of handing over of the green/ park.
6. The adopting agency shall ensure the toilets are cleaned twice daily and remain open for public use.
7. The adopting agency shall ensure removal of garbage on a daily basis.
8. The adopting agency shall ensure environmentally friendly disposal of garden waste.
9. The adopting agency shall ensure the toilets are well lit and provide replacement of bulb/tube/LED within 14 hours of reporting of any fault.
10. The adopting agency shall maintain a complaint register at a conspicuous place at the green/ park.
11. The adopting agency shall display its e-mail id and mobile number for registering complaints, if any, by the public/user.
12. The adopting agency shall employ such number of gardeners, sweepers, security guards etc. as required or directed by Deputy Director, Horticulture and felt necessary for well maintenance of the adopted green/ park. Adopted agency shall provide financial commitment for one-time development of the park and its subsequent upgradation and maintenance.
13. The adopting agency shall pay the water and electricity bill by the due dates directly to the concerned authorities.
- 14. In any event of non-adherence to any clause of terms and condition or agreement, a Notice will be issued through the concerned Deputy Director (Hort.). 10% of amount equivalent to security will be forfeited, if the issues raised in notice are not addressed/ resolved in 15 days' time. DDA reserves the right to terminate the agreement and take over the maintenance of the park after issuing a Show Cause Notice through the concerned Deputy Director (Hort.), this being the exit clause. In case of any damage or termination of the agreement, security amount shall be**

forfeited. The adopting agency shall not obstruct in any manner whatsoever, after cancellation of the agreement.

- 15. The adopting agency shall depute labor for example one Mali per acre and the total manpower involved in the maintenance of park to be submitted to the concerned DD (Hort.) and concerned S.O. (Hort.) to keep a check on the same.**
- 16. The adopting agency shall keep a separate account / budget for the maintenance of the park to be submitted to concern DD (Hort.).**

This Service Level Agreement shall be a part and parcel of the Agreement.

DDA, Adoption of Parks 2019
List of Do's and Don'ts

Do's for the agency adopting the green / park

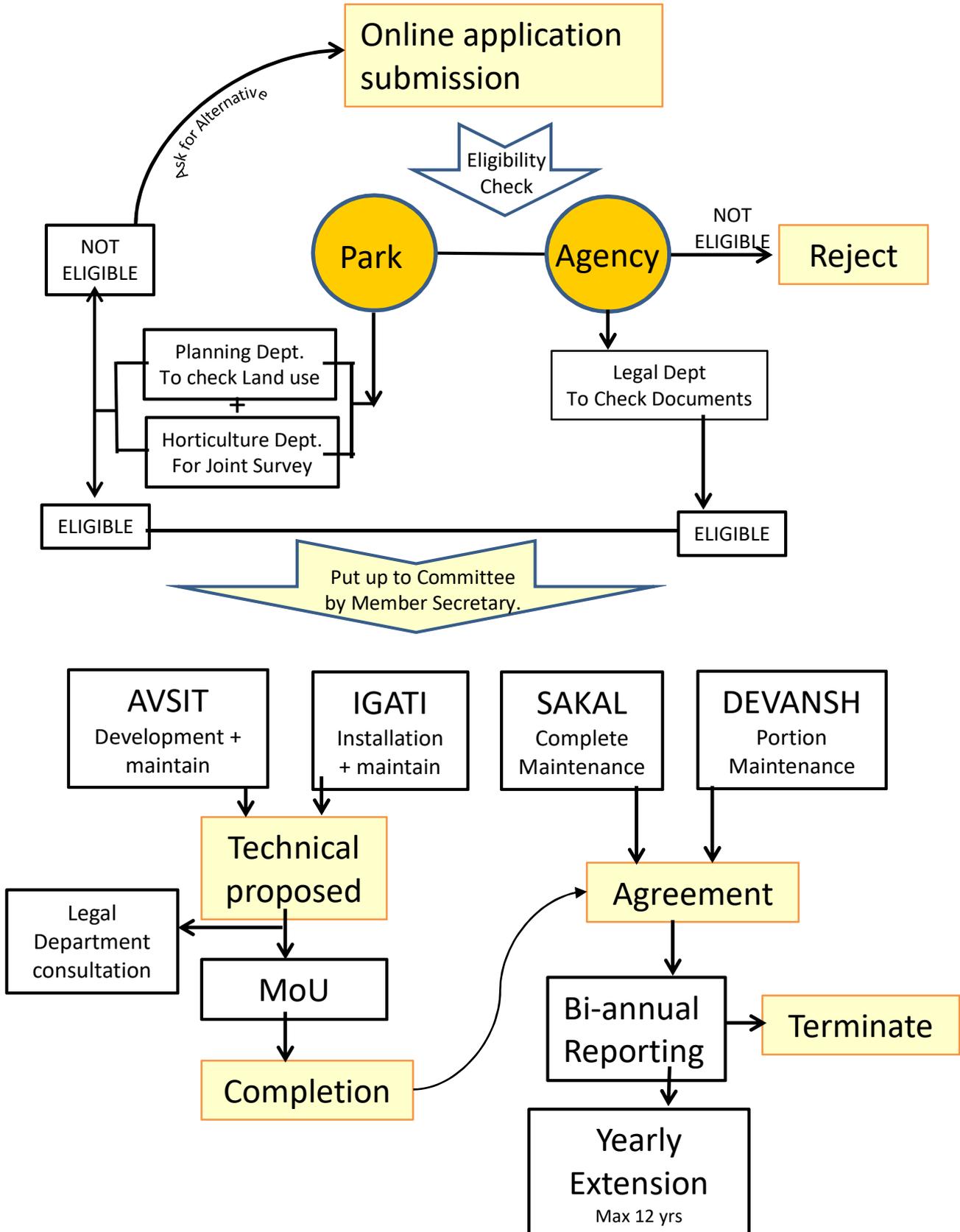
The Adopting Agency:

1. Should prominently display that the said green/ park is a DDA park
2. Will bear the entire costs and expenses on the development and maintenance
3. Will solely be responsible for keeping the said DDA green/ park in a neat and healthy condition
4. Should not use the flowers, fruits or plants, etc. for any commercial use
5. Should open the green/ park for general public without any restraint/ entry fee
6. Should ensure that no encroachment happens in the green/ park
7. Should comply bye-laws/ rules/ regulations/ acts relating to the subject matter and should not violates any orders/ directions of the Hon'ble Supreme Court, High Court, NGT, etc., while development and maintenance of greens/ parks.
8. Is allowed to put up display boards of specified size near major entries.
9. Should bear & pay all running expenses of operating the green/ park.
10. Should develop the green/ park as per approved design and as per Terms and Conditions
11. Can have the features in green/ park as per Terms and Conditions and approved by the DDA.
12. Should submit an action plan of one year at the time of application
13. Will bear the stamp duty payable for the execution of the agreement
14. Has to pay security deposit in the form of bank guarantee as per Terms and Conditions
15. Is permitted to use the green/ park for organizing public functions for a maximum period of 20 days in a year.

Don'ts for agency adopting the green / park

1. It should not transfer the maintenance and development of the green/ park to any other person, society, company, department, organization etc.
2. It should not enter into sub-agreement for maintenance etc. with others
3. It should not permit to hold marriage functions
4. It should not remove or cut any plant, tree, etc. from the green/ park
5. It should not use the green/ park for private functions.
6. The gate and the boundary wall to be constructed by DDA.

DDA, Adoption of Parks 2019 Procedural Flow Chart



Form of application for seeking information under the
Right to Information Act, 2005.

Annexure A-5

I.D.No
(For official use)

To

The Public Information Officer,
Chief Fire Officer,
205, 1205, New Barakhamba Road,
Connaught Lane, Barakhamba,
New Delhi- 110001.

1. Name of the Applicant : **Gurdeep Singh**
2. Address : **D-5/9, 2nd Floor, Model Town-III, Delhi-110009.**
3. Particulars of information. - :

(a) Concerned department: **Delhi Fire Services**

(b) Particulars of information required: **About No Objection Certificates.**

i. Details of information required: **As per attachment (Next Page).**

ii. Period for which information asked for: **Years 2006-2024**

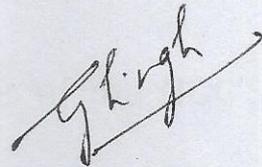
iii. Other details : **As per next page**

4. A fee of Rs10/- (Rupees ten only) has been deposited in the office of the Public Information Officer vide receipt No. **66F340607** dated **15/05/2025**

Place: Model Town,

Delhi- 110009.

Date: 15/05/2025.



Signature of Applicant

(GURDEEP SINGH)

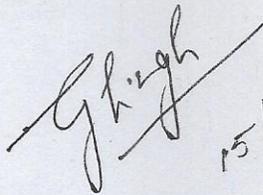
Email: **gurdeep4654@yahoo.in**

Tel. No. **9910569365**

Application under the RTI Act 2005

Please provide me the following information regarding Jawahar Park, D Block, Model Town-3, Delhi-110009 (adjacent to D-5 & D-8 lanes) , MCD Ward no.68 (previously Ward No.77).

1. Has any organization/Sanstha/Committee applied for No Objection Certificate to hold any social/religious/cultural function in Jawahar Park, D Block, Model Town-3, Delhi-110009 from the year 2006-2024?
2. Did your department provide any NOC to hold such functions in the aforesaid park from the period of 2006-2024?
3. Does the Fire Department have No Objection to the fact that Fire crackers, Gas Cylinders and numerous effigies are burnt next to the TPDDL substation (in proximity of 10 meters) and the IGL gas pipeline?
4. If the NOCs were given, please provide the copies of the NOC'S issued with the terms and conditions mentioned.
5. Did the concerned officer visit the above mentioned site to assess the fire safety hazard before issuing such NOC?


15/05/25
(GURDEEP SINGH)

अधपत्र COUNTERFOIL

इसे फाड़कर प्रेषक अपने पास रख ले।
To be detached and kept by the Sender.

पोस्टल आर्डर
₹ 10
POSTAL ORDER

किसके अलावा भेजना
To whom payable CHIEF

FIRE OFFICER

किसके डाकघर में
At what Office BARAKHAMBA ROAD, NEW DELHI

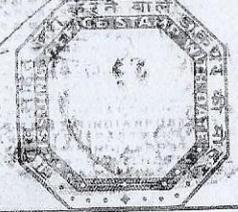
क्या इसे क्रॉस किया है
Whether crossed YES

भेजने की तारीख
Date sent

66F 340607

मूल टिकट अधपत्र

अधपत्र
NOT NEGOTIABLE



डाक टिकट
POSTAGE STAMPS

पोस्टमैन
POSTMASTER

17/6/05

₹ 588

भारतीय पोस्टल आर्डर
INDIAN POSTAL ORDER

डाक महानिदेशक DIRECTOR GENERAL OF POSTS.

PAY TO THE CHIEF FIRE OFFICER,
NEW DELHI - 110001 को

दस रुपए की रकम THE SUM OF RUPEES TEN ONLY



AT THE POST OFFICE AT

के डाकघर में अदा करें।

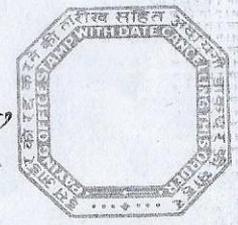
इस लाइन के नीचे मत लिखिए DO NOT WRITE BELOW THIS LINE

66F 340607

कमीशन COMMISSION रुपया 1 RUPEE

प्रेषक अपना नाम और पता यहां लिख दे।
SENDER MAY FILL IN HIS NAME AND ADDRESS HERE IN

GURDEEP SINGH
D-5/9, 2ND FLOOR,
MODEL TOWN - III, DELHI - 9



सत्यमेव जयते

अधपत्र COUNTERFOIL

इसे फाड़कर प्रेषक अपने पास रख ले।
To be detached and kept by the Sender.

पोस्टल आर्डर
₹ 10
POSTAL ORDER

किसके अलावा भेजना
To whom payable CHIEF

FIRE OFFICER

किसके डाकघर में
At what Office BARAKHAMBA ROAD, NEW DELHI

क्या इसे क्रॉस किया है
Whether crossed YES

भेजने की तारीख
Date sent 17/6/05

66F 340607

भारतीय डाक
डाक सेवा - जन सेवा



ED500873979IN IVR:6968500873979
EP MODEL TOWN III 90 <110009>
Counter No:1,17/05/2005,12:42
To:THE P T D CHL,205/1205 N B 60A
PIN:110001, New Delhi SPO
From:GURDEEP SINGH,D-5/9 MODEL TOWN
Wt:32gms

Amt:17.70,Tax:2.70,Amt.Paid:18.00(Cash)

(Track on www.indiapost.gov.in)
(Dial 18002666868)(Wear mask - Stay safe)



GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
HEADQUARTERS: DELHI FIRE SERVICE: NEW DELHI- 110001



No. F.5/DFS/HQ/RTI/2025/ID- 9365/ 779

Dated: 29/5/25

To,

Sh. Gurdeep Singh,
D-5/9, 2nd Floor, Model Town-III,
Delhi-110009

Sub:- Information under RTI Act-2005.

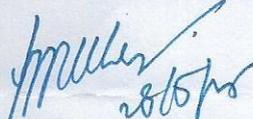
Sir,

With reference to online RTI ID no.9365 dated 15.05.2025 addressed to the undersigned for supply of information pertaining to this department. The required information is as under:-No information available.

1. No information available.
2. No information available.
3. No information available.
4. No information available.
5. No information available.

In case, you are not satisfied with the decision, you may file an appeal before the First Appellate Authority within 30 days of the receipt of this information.

Dr. S. K. Tomar,
First Appellate Authority,
Hqrs. Delhi Fire Service,
Connaught Lane, New Delhi-110001


(Mukesh Verma)

Public Information Officer
T. No.011-23413991

Form of application for seeking information under the
Right to Information Act, 2005.

I.D.No
(For official use)

To

The Public Information Officer,
DCP/Traffic/Northern Range,
MACT Building, Pocket-7,
F-Block, Sector-15, Rohini,
Delhi – 110085.

1. Name of the Applicant : **Gaurav Arora**
2. Address : **D-8/3, 2nd Floor, Block D-8, Model Town-III, Delhi-110009.**
3. Particulars of information. - :
- (a) Concerned department: **Delhi Traffic Police**
- (b) Particulars of information required: **About No Objection Certificates.**
 - i. Details of information required: **As per attachment (Next Page).**
 - ii. Period for which information asked for: **Years 2006-2024**
 - iii. Other details : **As per next page**
4. A fee of Rs10/- (Rupees ten only) has been deposited in the office of the Public Information Officer vide receipt No. **66F340608** dated **15/05/2025**

Place: **Model Town,**

Delhi- 110009.

Date: **15/05/2025.**

Signature of Applicant

Email: **d5n8rwa@gmail.com**

Tel. No. **9911303048**

RTI DCP (Traffic) ⁵⁹¹

Sub - NOC

By GAURAV ARORA

D-8/3 Model Town,
DELHI - 110009.

अधपत्र COUNTERFOIL

इसे फाड़कर प्रेषक अपने पास रख ले।
**To be detached and kept
by the Sender.**

पोस्टल आर्डर

₹ 10

POSTAL ORDER

किसे अदा करना
To whom payable The PIO

DCP (TRAFFIC), NORTH

किस डाकघर-में
At what Office Rohini

क्या इसे क्रॉस किया है
Whether crossed YBS

भेजने की तारीख
Date sent 11/5/25

66F 340608

ED500673996IN IVR:6968500873996

SP MODEL TOWN III 50 110009

Counter No:17/05/2025, 12:42

To:THE PIO DCP N, RANGE EAST BLDG

Pin:110085, Rohini Sector-7 90

From:GAURAV ARORA, D-8/3 MODEL TOWN

Wt:36gms

Amr:17.70, Tax:2.70, Amt. Paid:18.00 (Cash)

<Track on www.indiapost.gov.in>

<Dial 18002666568> Wear mask - Stay safe

भारतीय डाक
डाक सेवा - जन सेवा



India Post
डाक सेवा - जन सेवा



OFFICE OF THE PUBLIC INFORMATION OFFICER CUM-DCP/ TRAFFIC, NORTHERN RANGE, F-Block, Pocket-7, Sector-15, Rohini, Delhi-110085, Ph.: 011-27854080, 27854081, E-mail: dcptond@gmail.com	DCP Traffic/NR
--	---------------------------

No. F. 12-/25/ 318 /RTI CELL/DCP/T- NR, Delhi, dated the 27/5 /2025.

To

Sh. Gaurav Arora,
R/o - D-8/3, 2nd Floor
Block D-8, Model Town-III
Delhi-110009
Mob:9911303048

Subject: Regarding supply of information under RTI Act-2005.

Please refer to your application dated 15.05.25, under Right to Information Act-2005, received in this office on 19.05.2025 through speed post, on the subject cited above. As per information received from APIOs Northern Range/Traffic, requisite information is as under:

Point	Information
	Report of APIO North West District/Traffic is attached herewith.

In case you are not satisfied with the information given, you may file first Appeal against this reply, if any, to the First Appellate Authority, the Addl. CP/Traffic, Traffic Police Headquarter, Dev Parkash Shastri Marg, Pusa, New Delhi -110012 within 30 days of receipt of reply.

Public Information Officer
Cum Dy. Commissioner of Police
Traffic Northern Range, Delhi.

No. F.124/25/_____/RTI CELL/DCP/T- NR, Delhi, dated the_____/2025.

Copy to: -

1. RTI Cell (PIO)/Traffic-HQ for information.

Subject: Reply of RTI filled by Shri Gaurav Arora RTI Act 2005.

Sir,

Kindly Refer to your office letter 124-RTI/DCP/T/NR dated 19/05/2025.

In this regard, the reply pertaining to Model Town Traffic Circle is presented below:

Point No	Reply
Point no 1 ,	The present Model Town Traffic Circle was established in the year 2023. Since its formation, this office has not received any application or No Objection Certificate (NOC) request for holding social, religious, or cultural functions at Jawahar Park, D Block, Model Town - III, Delhi - 110009.
Point no 2	No NOC has been accorded by traffic police on above said address since its formation i.e. 2023.
Point no -3	Any NOC accorded is subject to prior inspection and the clearance and recommendation from local police relevant department including, civic agency fire etc.
Point no 4 & 5	Does not relate to This office.

Submitted please

Handwritten signature
Dheeraj Narang
 Assistant Commissioner of Police
 Delhi Traffic Police

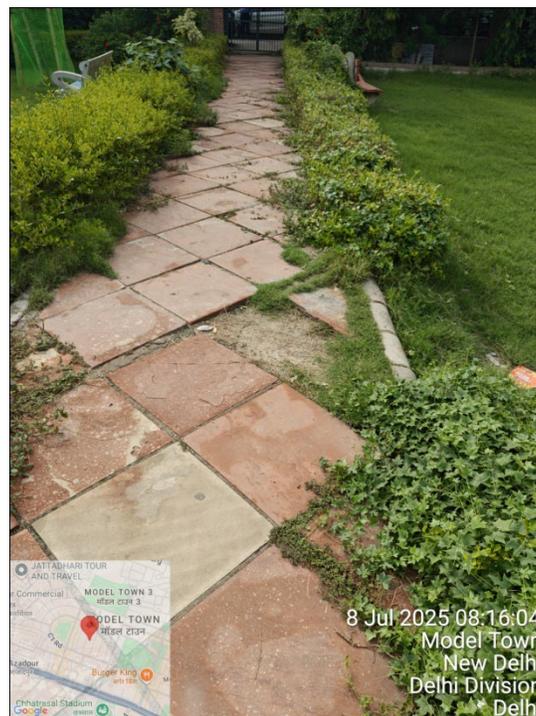
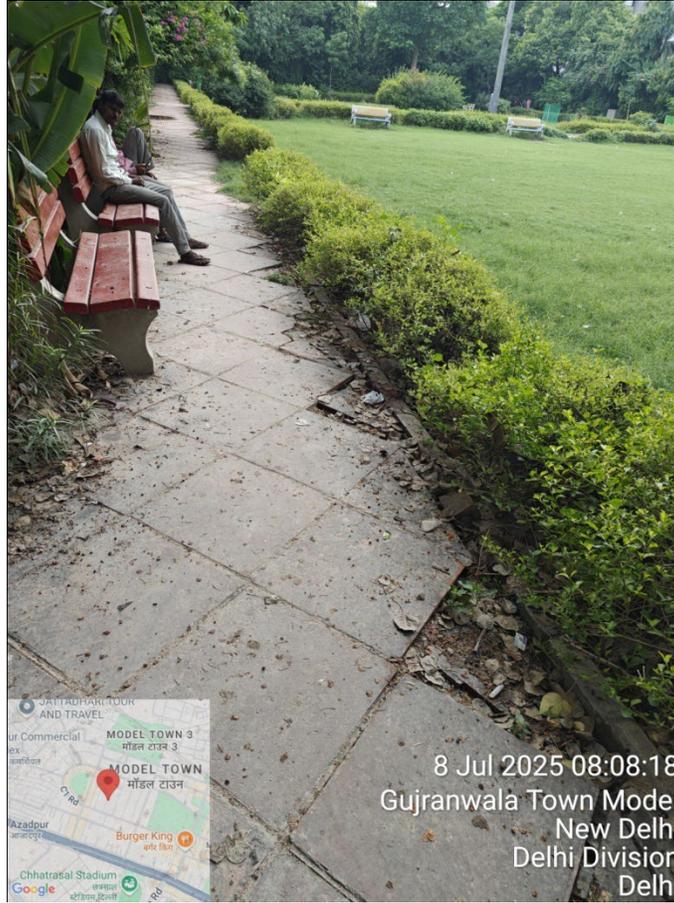
Handwritten signature
 23/5/25
TI/MTC
DEEPAK SHARMA
Deepak Narang
 Traffic Inspector of Police
 Model Town Circle
 Delhi Traffic Police

No 51/RTI/TI/MTC
 23.05.25
 24/5/25

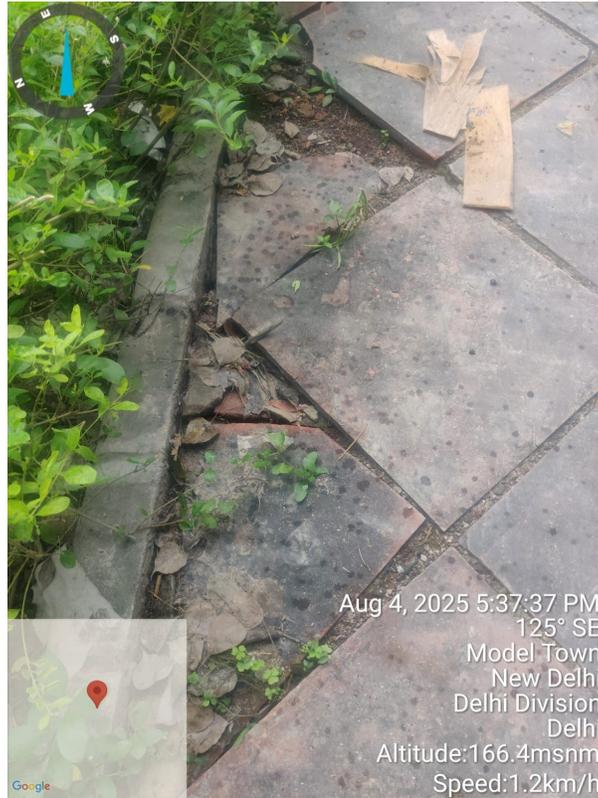
**BOUNDARY WALL OF JAWAHAR PARK BROKEN AND ENTRY CREATED FOR ADJACENT
AGGARWAL SADAN (Photograph dated 16th May, 2025)**



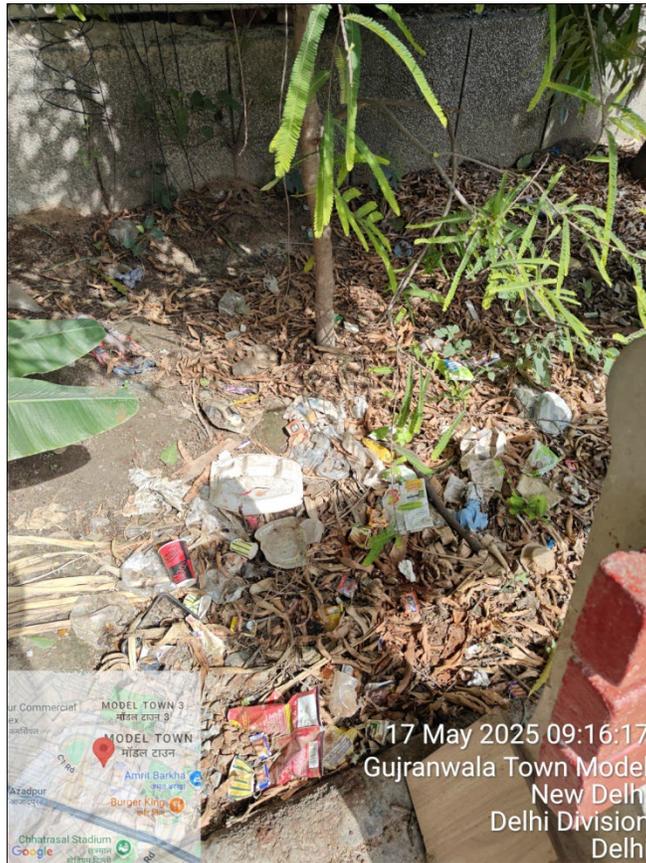
BROKEN FOOTPATHS IN JAWAHAR PARK AS ON 8TH JULY 2025



BROKEN FOOTPATHS OF JAWAHAR PARK DATED 4TH AUGUST 25



CEMENT AND MALBA IN THE KYAARIS OF JAWAHAR PARK

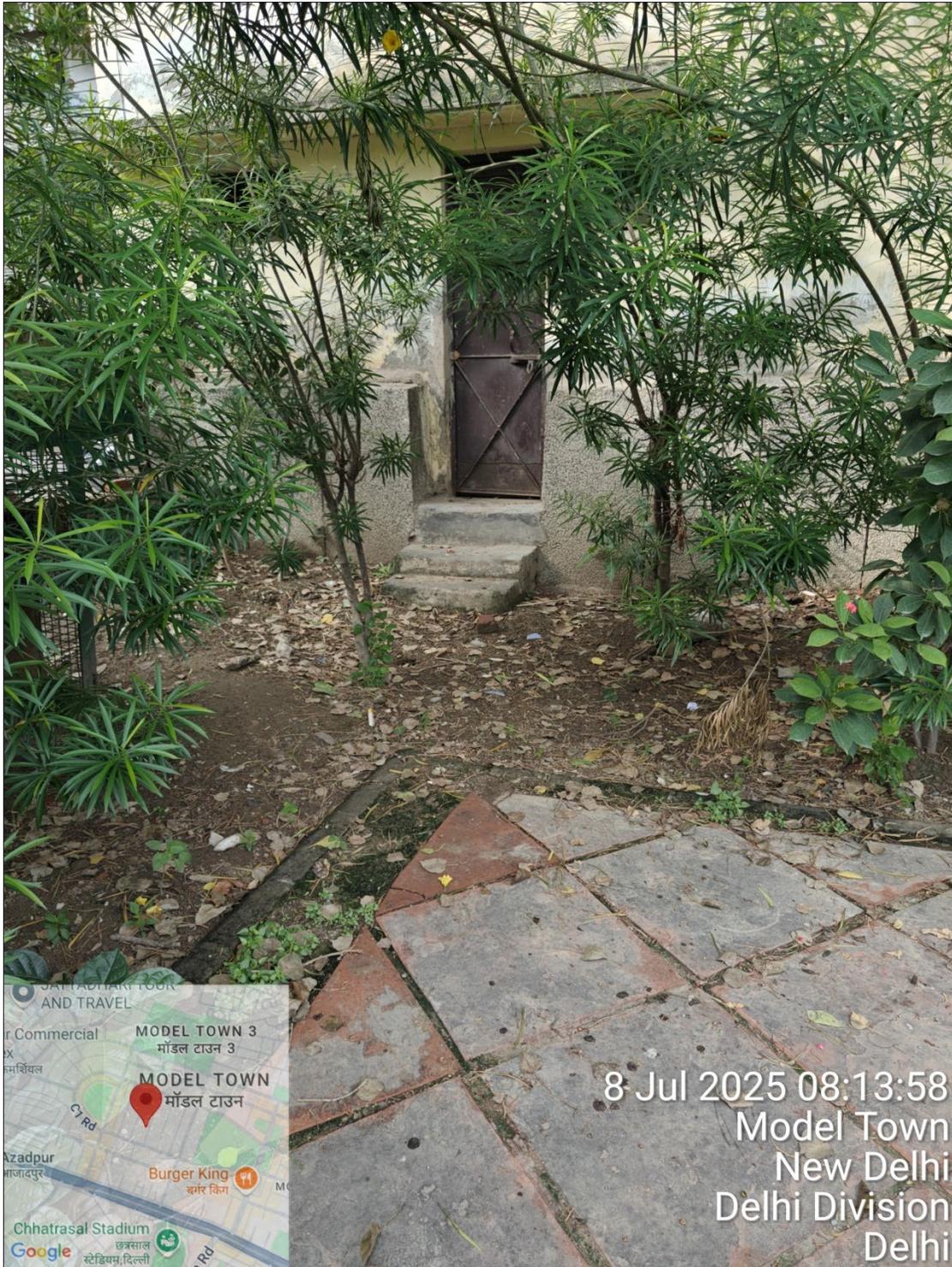


ENCROACHMENT BY THE ADJACENT BUILDING BY CUTTING THE BOUNDARY WALL

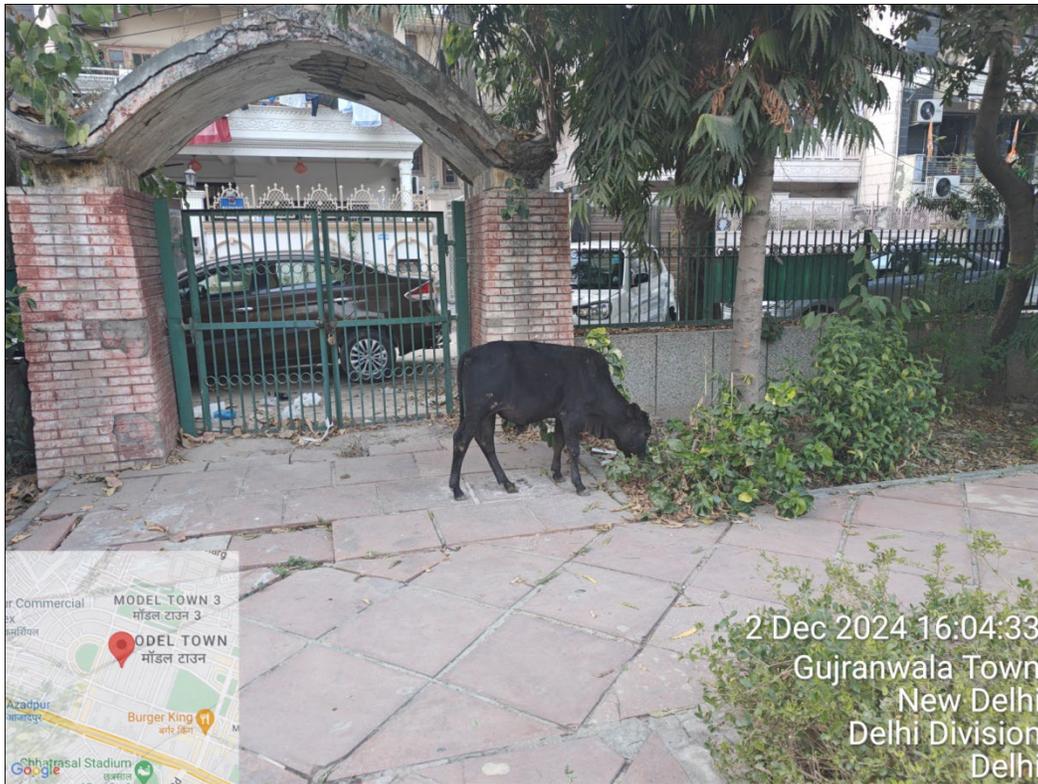
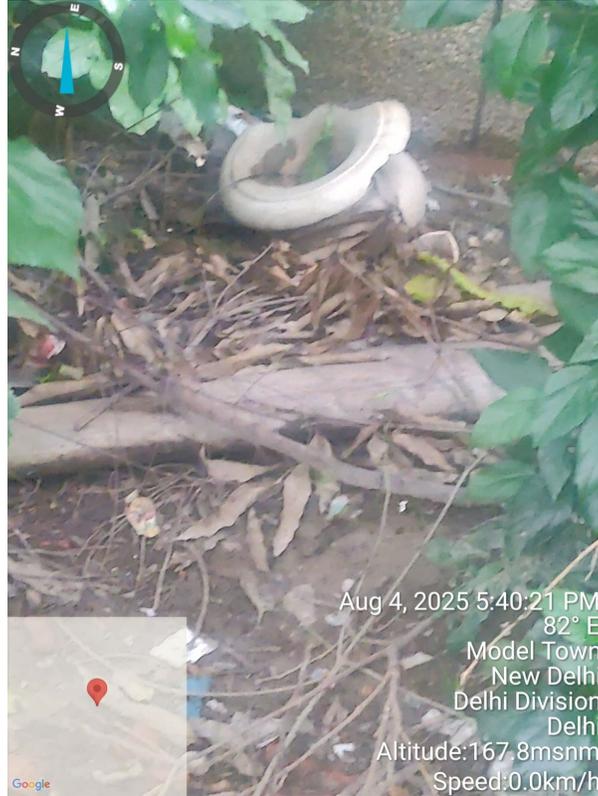


JAWAHAR PARK BOUNDARY WALL CUT AND PASSAGE CREATED BY THE ADJACENT PROPERTY

(Photograph dated 8th July,2025)



JAWAHAR PARK FULL OF PLASTIC WASTE



PLASTIC WASTE IN THE KYAARIS (JAWAHAR PARK)

Photographs dated 4th August,2025.



Complaint Detail



Rakesh Sabhlok

Resolved

Horticulture - Watering Of Plants.



D5/9, Pocket D 4, Phase 2, Model Town,
New Delhi, Delhi, 110009, India



10-May-2025 8:21 AM

VOTES

COMMENTS



Monika



28-May-2025 12:30 PM

Necessary information has been submitted to forest department .



Jaswinder Kaur



10-May-2025 9:46 AM

In Jawahar Park plants are not watered regularly, grass remains



Feedback



0



0



0



Comments



MCD-311

10-May-2025 8:21 AM

Your complaint has been registered with no 250510163983808648. Click to track the complaint: <https://api-admin.everythingcivic.com/rd/4YdojXJuVzEPD91> Thank you. ECIVIC



Machine Auto-Assign Iss...

10-May-2025 8:21 AM

This issue is assigned to Monika (Mobile: 8929894841)



Jaswinder Kaur

10-May-2025 9:46 AM

In Jawahar Park plants are not watered regularly, grass remains dry. There was a mango tree which has been cut and Chaudhary is not taking any action



Monika

28-May-2025 12:30 PM

Necessary information has been submitted to forest department .

Item No.09

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

ExecutionApplication No.15/2024
In
Original ApplicationNo. 642/2023
(IA No 440/2024,IA No 390/2024,IANo 246/2024)

Residents Welfare Association

Applicant

Versus

Horticulture Department of
Municipal Corporation Delhi
West Zone&Anr.

Respondent(s)

Date of hearing: 13.09.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Abhishek Shivpuri, Adv. for Applicant in E.A 15/2024
Respondent: Ms. Puja S. Kalra & Mr. Virendra Singh, Advs. with Mr. P.K. Banerjee,
Deputy Director Horticulture & Mr. Surender Singh, Asst. Director
Horticulture, West Zone, MCD
Mr. Narender Pal Singh, Ms. Anjali, Mr. Divyesh Pant & Mr. Deepak
Kumar, Advs. for DPCC

ORDER

1. This execution application has been filed seeking compliance of the order dated 18.10.2023 passed in O.A. No. 642/2023. In the O.A. Residential Welfare Association of F Block Vikas Puri had made a complaint against the permission granted by the Authorities for organizing functions in Smt. Bharpai Devi Jindal Vatika, also known as Dussehra Ground, in violation of the environmental norms. The Tribunal vide order dated 18.10.2023 had disposed of the O.A. directing the Director Horticulture Department Respondent No. 1 as under:

“6. Hence, we direct the Director, Horticulture Department of MCD (West Zone) i.e. Respondent No. 1 to carry out the spot inspection of the park in question, ascertain the correct position in respect of allotment of the park and its use for different functions on the basis of the record as also the other material collected during the spot inspection and take appropriate remedial measures to ensure due

compliance of the judgment of the Hon'ble Supreme Court and the applicable rules and regulations of 3 the MCD. Let this exercise be completed within a period of three months from today.

7. Respondent No. 1 will submit the action taken report before the Registrar General of this Tribunal by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. If found necessary, the matter will be listed before the Bench for consideration."

2. In terms of the above direction the exercise was to be completed within three months from the date of order and the Action Taken Report was required to be filed before the Registrar General of the Tribunal.

3. The direction of the Tribunal was not complied with therefore, the Applicant had filed the present execution application with a plea that though the three-month period had expired but the exercise directed by the Tribunal was not undertaken and order of the Tribunal was not complied with.

4. In that execution application, the Tribunal had issued notice on 02.04.2024, thereafter Mr. P.K. Banerjee, Deputy Director Horticulture West Zone, MCD filed a status report dated 24.05.2025.

5. The Tribunal in the proceedings dated 28.05.2024 had recorded what transpired on that date during the course of the hearing as under:

"7. Status report dated 24.05.2024 has been filed by respondent Municipal Corporation Delhi (MCD) wherein details of allotment of the area from 19.09.2023 to 28.09.2023 have been disclosed. During the course of argument today a question was put to Learned Counsel for respondent no.1 if area/land in question is a park and she has answered in "No", on the instructions from the Deputy Director, Horticulture. The said stand is contrary to paragraph no. 04 of the report dated 24.05.2024 whereas the said piece of land is clearly stated to be a park. It also runs counter to the status which is reflected in the receipt annexed as Annexure A-6 wherein while doing the booking it is stated "booking of park". We also find that in the status report dated 24.05.2024, the Deputy Director Horticulture in paragraph no.08 has stated that after completion of the period disclosed in the report, concerned allottee had not vacated the park, therefore, FIR was lodged against the organizers by the Department. Event was disclosed to be from 19.09.2023 to 28.09.2023 and 29.09.2023 to 02.10.2023 whereas the FIR enclosed as annexure A-7 is dated 15.09.2023 that too in respect of illegally installing the swings in the "Dussehra Ground

Park". Hence, it appears that an attempt has been made by respondent no.1 to mislead the Tribunal by filing incorrect document and taking improper plea in the report and also incorrect oral stand.

8. Counsel for the Applicant referring to the photographs filed from page no. 244 onwards has submitted that the organizers to whom the park was allotted have dug pits upto 10 feet deep and damaged the ground but no action against them has been taken.

9. In the aforesaid circumstances, we require the respondent no.1- Deputy Director, Horticulture, Department of MCD to file his personal affidavit stating as to why he has not complied with the earlier order of the Tribunal dated 18.10.2023, not filed the report before the Tribunal in compliance thereof, as to why he has taken incorrect plea in the report dated 24.05.2024 in respect of lodging the FIR against the organizers which does not match with the document enclosed therewith and as to why the organizers were permitted to dig pits in the park as reflected in photographs on page no. 244 and as to why action has not been taken against them for damaging the park.

10. Let this affidavit be filed by the responding no.1 within a period of four weeks by supplying an advance copy to the applicant."

6. Mr. P.K. Banerjee, Deputy Director Horticulture West Zone, MCD is present today. We have heard the counsel for the parties as also the Deputy Director Horticulture at length.

7. It has not been disputed, rather it has been admitted, during the course of the argument that the entire 18,000 Sq.m of land/area is park. Hence, we find that an incorrect statement was made on 28.05.2024 on instructions by Mr. P.K. Banerjee, Deputy Director Horticulture that the allotted land/area was not a park.

8. It is also not in dispute that the Hon'ble Supreme Court in the matter of MC Mehta Vs. Union of India & Ors. reported in (2009) 17 SCC 683 had issued the following direction:

"8. After hearing learned counsel for the parties, we direct as under:

(1) The use of parks by MCD, NDMC and DDA for the purposes mentioned above shall not be permitted more than 10 days in a month. In other words, when any of the designated parks is used for such purposes 10 days in a month, no function thereafter shall be permitted during the remaining 20/21 days.

(2) MCD, DDA and NDMC shall make endeavour to construct community halls for the purposes of marriages, etc.

(3) The number of parks indicated by the 3 authorities used for marriage, etc. shall be reduced by 30% by 30-6-1997. It shall be reduced by further 20% by 31-12-1997. In other words, by the end of December 1997, the use of the parks for marriage, etc. shall be reduced by 50%. The authorities concerned shall file affidavits stating the progress in the projects for the construction of community halls and also stopping the use of the parks for marriages, etc. by the end of December 1997. This may be monitored further by this Court in January 1998.

(4) We direct that no tree shall be cut from any of the parks for any purpose, specially to facilitate the holding of these functions, etc.”

9. In terms of the above order use of park for the purposes mentioned therein could not be permitted for more than 10 days in a month.

10. Hon'ble Supreme Court in Civil Appeal Diary No(s) 15182/2021 on 02.08.2021 had passed the following order:

“Mr. Tushar Mehta, learned Solicitor General of India appearing on behalf of the appellants submits that the judgment and order under appeal has been passed without notice to the appellants North Delhi Municipal Corporation (CA D. No. 15182 of 2021) and the South Delhi Municipal Corporation (CA D. No. 15754 of 2021). Accordingly, there will be stay of operation of the judgment and order under appeal. It is made clear that the directions of the Court in M.C. Mehta vs. Union of India reported in (2009) 17 SCC 683 with regard to the use of parks shall strictly be adhered to, and in no circumstances, shall use of parks for the purposes as mentioned in the said judgment be permitted for more than 10 days in a month.”

11. In terms of the aforesaid order the earlier order of the Hon'ble Supreme Court reported in (2009) 17 SCC 683 was required to be strictly complied with.

12. It is not in dispute that in the month of September 2023 Dussehra Ground (Park) was booked and given for the function for more than 10 days which contravenes the above order of Hon'ble Supreme Court.

13. During the course of the argument, the policy dated 07.09.2012 page 300 has been relied upon but in that policy admittedly there is no

reference to the above orders of the Hon'ble Supreme Court. The clauses of that policy also appear to be not inconsonance with the orders of the Hon'ble Supreme Court.

14. Mr. P.K. Banerjee, Deputy Director Horticulture West Zone, MCD has filed the explanation/status report dated 23.08.2024 but the said explanation/status report also does not disclose any cogent reason for making a misstatement before the Tribunal about the park. It also does not give any proper explanation for not filing the report in terms of the order dated 18.10.2023 but it only states that the note relating to the inspection of the booking site and forfeiture of security deposit was marked to the sub-ordinate staff for sending the compliance report and that there was a lapse in communication and follow through by the sub-ordinate staff. The explanation which has been furnished in the report dated 23.08.2024 does not indicate that Mr. P.K. Banerjee, Deputy Director Horticulture West Zone, MCD has acted in a bonafide manner either in complying with the directions of the Tribunal or in placing the correct facts before the Tribunal.

15. Hence we find that Mr. P.K. Banerjee, Deputy Director of Horticulture not only did not comply with the order of the Tribunal but he had attempted to mislead the Tribunal by making an incorrect statement that the land/area in question is not a park.

16. Hence, we impose a cost of Rs. 25000/- upon Mr. P.K. Banerjee, Deputy Director Horticulture West Zone, MCD for not complying with the order of the Tribunal, for presenting incorrect facts and misleading the Tribunal.

17. Let the cost be deposited by him with the Registrar General of the Tribunal within two weeks.

18. The MCD is directed to file a further report keeping in view the observations made above within six weeks.

19. List on 03.01.2025.

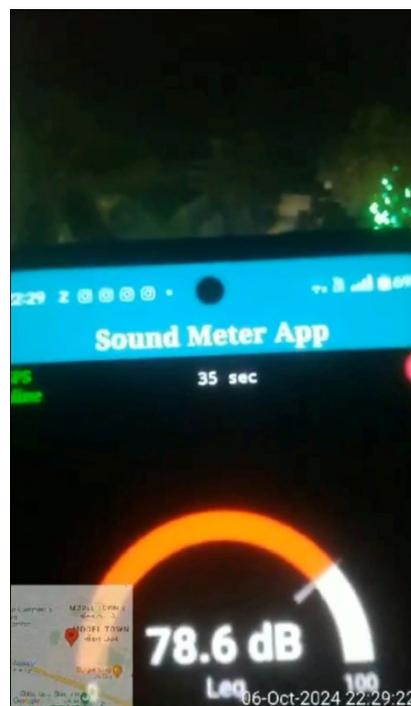
Prakash Shrivastava, CP

Arun Kumar Tyagi, JM

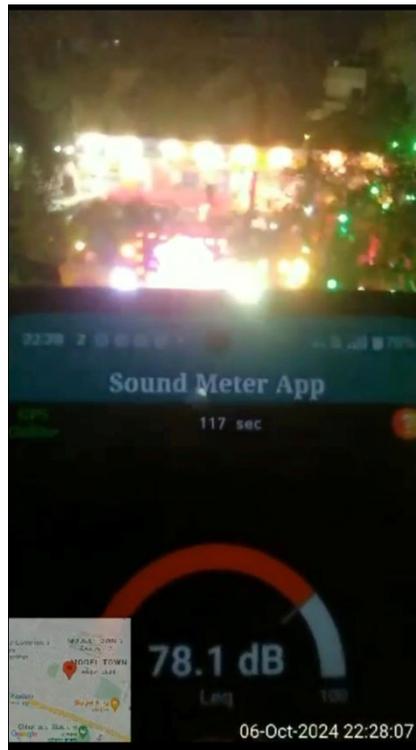
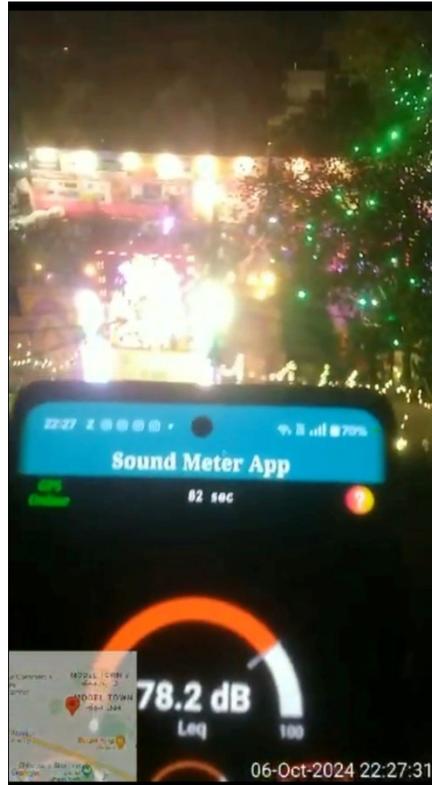
Dr. A. Senthil Vel, EM

September 13, 2024..
EAno.15/2024 In
OA No. 642/2023
HB

NOISE POLLUTION LEVELS BEYOND PERMISSIBLE LIMITS



NOISE POLLUTION LEVELS MUCH HIGHER THAN ADMISSIBLE LIMITS





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Date... 13.09.2024

(95)

Memorandum of Association

Name of the Society

The name of the society shall be **D5 & D8 Residents Welfare Association.**

Registered Office

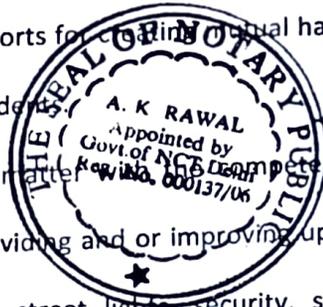
The registered office of the society shall be and remain in the National Capital Territory of Delhi and at present is its following address:

D-5/9, 2nd Floor, Model Town, Delhi-110009

Aims of Objects of the Society

The main aims and objects for which the society is established are as under:-

1. To make best efforts for creating mutual harmony, co-operation and love and affection amongst the residents.
2. To take up the matters relating to competent authorities for common interest of the residents for providing and or improving upon common facilities in the area like- Park, drainage, roads, street lights, security, scavenging, water and electricity supplies, banking, post-office, bus service facilities, community hall and barat ghar, milk booth, health care, etc.
3. To promote and maintain the plantation, greenery, lighting and cleanliness/upkeep of Jawahar Park (adjacent to D-5 and D-8 lanes, Model Town-3, Delhi-110009) and to prevent any encroachment/misuse of the aforesaid park.



Delwant Singh

Amrisha

Khoir Bhalie

Renu

Mykesh Venu

Omka

Ashwani Chakhe

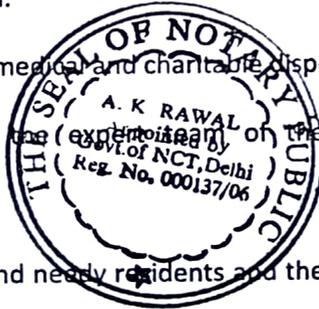
Jasvinder Kaur



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Date: 13.07.2024

92

4. To arrange, establish and open libraries, reading rooms for the use of residents/ members.
5. To arrange and organize social & cultural functions from time to time.
6. To publish books, magazines and other publications for the promotion, protection and advancements of residents.
7. To approach the concerned authorities for redressal of grievances of members of society.
8. To make correspondence in lawful manner to arrange meetings, conferences, with the concerned authorities.
9. To disseminate information of the Government rules, policies, notifications among the members of the association.
10. To arrange services like sanitary fittings, plumber work, electrician work, security and sweeping etc. for the area.
11. To arrange and establish medical and charitable dispensaries.
12. To provide lectures by the (experts) of the Doctors, Journalists, Lawyers & professionals etc.
13. To help and assist poor and needy residents and their families during emergencies such as flood, war, earthquake and rains.
14. To receive and collect any gift subscriptions and donations either in cash or in kind or acquire by and other lawful ways and means and open the same in fulfillments of all or any other aims and objects of the society. The income and property of the society shall be applied solely for promotion and fulfillment of the aims and objects of the society. If



Kulwant Singh

[Signature]

Kiran Bhatia

Renu

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Mr. Kesh Verma

[Signature]

Jhansu Chatterjee

Jasvinder Kaur

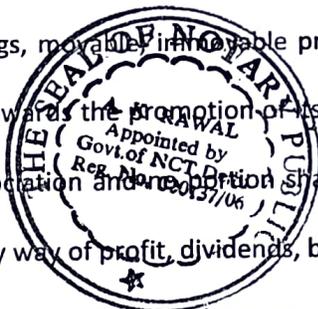


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(93)

any person wants to contribute, donate or give subscription, the same shall be spent towards the promotion of the particular objects only.

15. To open, found, establish, promote, set up, run, maintain, arrange finance, support and/or help the various community development programs/ activities and also construct and develop the community halls, Sochalaya, Charitable Dispensaries, hospitals, libraries and other Buildings/Institutions for the use of general public and welfare of general public.
16. To arrange and organize various kinds of Welfare programs. E.g. Vocational Education, Entertainment, games etc.
17. To do such other things/acts/activities which are necessary and which may be incidental or conducive to the attainment of any of the object of the society.
18. All the income earnings, movable and immovable properties of the society shall be solely utilized and applied towards the promotion of its aims and objects only set forth in the Memorandum of Association and no portion shall thereof shall be paid or transferred directly or indirectly by way of profit, dividends, bonus in any manner whatsoever to the present or the past member of the society or to any persons claiming through any one or more of the present or past member. No member of the society shall have any personal claim on any movable or immovable properties of the society or make any profit whatsoever by virtue of his/her membership.



Kulwant Singh

Anshu Omah

Kul Bhal

Mykesh Verma

Renu

Ashwani Chaudhary

Jaswinder ka

abhishekshivpuri@outlook.com

From: Abhishek Shivpuri on behalf of abhishekshivpuri@outlook.com
Sent: Tuesday, August 19, 2025 10:50 AM
To: 'Vikas Mehta'; divya@dylawchambers.com
Cc: d5n8rwa
Subject: RE: OA No. 1150/2024 (I.A. No. 433/2024, I.A. No. 474/2024 & I.A. No. 577/2024) D5 & D8 Residents Welfare Association, Model Town, New Delhi Applicant Versus Horticulture Department of MCD, Keshavpuram Zone
Attachments: Final Rejoinder Committee.pdf; Rejoinder - MCD.pdf

Dear All,

I am writing on behalf of the Applicant in the captioned matter and hereby serving you with the rejoinders to each of your replies as advance service.

Kindly acknowledge the receipt.

Regards,

Abhishek Shivpuri
Advocate
Supreme Court of India
K-12, Ground Floor,
Green Park Extension,
New Delhi - 110 016

From: Vikas Mehta <mehtavikas@hotmail.com>
Sent: Saturday, July 5, 2025 7:37 PM
To: abhishekshivpuri@outlook.com
Cc: divya@dylawchambers.com
Subject: OA No. 1150/2024 (I.A. No. 433/2024, I.A. No. 474/2024 & I.A. No. 577/2024) D5 & D8 Residents Welfare Association, Model Town, New Delhi Applicant Versus Horticulture Department of MCD, Keshavpuram Zone

Dear Sir,

Please find attached the reply to the OA No. 1150/2024 to be filed before the Hon'ble National Green Tribunal.

Please consider the same as advance service. Please acknowledge the same.

[Reply NGT.pdf](#)

Best Regards,
Chambers of Vikas Mehta
Advocate
59, Lawyers Chambers,
Supreme Court of India,
New Delhi - 110001 [Ph: 23389900]

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616

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