

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

(By Video Conferencing)
Original Application No.531/2022

Sher Singh Dagar

...Applicant

Versus

Govt. of NCT of Delhi & Ors.

...Respondents

Date of hearing: 18.04.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: None for the applicant.

Respondent Ms. Jyoti Mendiratta, Advocate for DM (South) and
SDM (Saket).
Mr. Virendra Singh, Advocate for MCD.
Mr. Balendu Shekhar, Advocate for DPCC.
Mr. Vaibhav Agnihotri and Mr. Abhishek Das
Advocates for DDA.

Application is registered based on a Letter Petition received by Post.

ORDER

1. Mr. Sher Singh Dagar resident of A-47, South Extn. Part-II, New Delhi-110049 has sent the present letter petition, which is treated and registered as original application, complaining that about 50 acres of land situated in front of Kharak Road/Executive club road near Chandan Hola village which was acquired by DDA is lying underdeveloped since acquisition thereof. The unwanted elements/ miscreants are dumping garbage with tractors in the land in question by breaking the boundary wall and are also using the land in question for piggery. They also burn garbage in the land in question and many times fire-brigade has been summoned to extinguish the fire. Their activities are causing environmental pollution and creating breathing problem to the residents of the locality making it difficult to the people of the area.

2. Vide order dated 02.09.2022 this Tribunal constituted a Joint Committee comprising of representative of Vice Chairman, DDA, Commissioner, Municipal Corporation Delhi, DPCC and Deputy Commissioner (South) Delhi with direction to verify the factual position and take remedial action and submit its report within one month. In compliance thereof report of the Joint Committee has been filed vide email dated 25.11.2022. The relevant part of the report of the Joint Committee is reproduced below:-

ACTION TAKEN REPORT ON BEHALF OF DELHI POLLUTION CONTROL COMMITTEE WITH RESPECT TO ORDER DATED 02.09.2022.

X X X X
2. That, in compliance of the order passed by this Hon'ble Tribunal, a joint inspection of the site was carried out on 29.09.2022 by the representative of DDA, SDM(Saket), MCD and DPCC. During the inspection it was observed that:

1. The land mentioned in complaint is of 32 acres (approx.) as informed by DDA officials.
2. The said land is in possession of DDA, however the whole of land is under litigation.
3. Boundary wall is found broken/ damaged.
1. C & D Waste (construction & demolition) & Garbage are being dumped in this land.
2. Commercial trucks are also parked on this land.
3. Jhuggies are also found in this land.
4. No piggery & fire/ burning of the garbage observed during the joint inspection.

Copy of the joint inspection report dated 29.09.2022 is enclosed herewith as ANNEXURE-1.

3. That, the DPCC has issued a letter on 07.10.2022 to Vice Chairman- DDA to take further necessary action for removal of C&D waste (construction & demolition), garbage including encroachment and provide action taken report. Copy of the letter dated 07.10.2022 is enclosed herewith as ANNEXURE -2.

4. That, the DDA has submitted letter dated 06.10.2022 (received on 14.10.2022). DDA has informed that the broken/ damaged boundary wall will be repaired in order to stop the' dumping of malba and parking of commercial trucks and further malba & jhuggis should also be removed. Moreover, the land should also be protected from encroachment. Copy of the letter dated 06.10.2022 submitted by DDA is enclosed herewith as ANNEXURE -3

5. That, DPCC has issued a letter on 19.10.2022 to DDA for taking further necessary action as mentioned in the letter dated 07.10.2022."

3. Status report was filed on behalf of the DDA vide email dated 07.04.2023 mentioning that in furtherance of the Inspection, the Deputy Director, Land Management of the Delhi Development Authority vide letter dated 25.10.2022 requested the concerned Executive Engineer to repair the damaged/broken wall at the site and further directed that the malba/debris dumped on the site may be removed. In furtherance of the same, the broken boundary wall has been repaired and the malba/debris has been removed. A compliance letter to this effect was sent to the deponent herein by concerned Executive Engineer along with photographs and copy of the same was also sent to DPCC. A copy of the compliance letter and photographs was annexed with the Status report.

4. On 10.04.2023 in the course of hearing the applicant went to the spot and joined the proceedings by making video call from the spot and showed to this Tribunal that solid waste/garbage is lying all over the entire area and the status report submitted before this Tribunal is patently false and factually incorrect. In view of the observations in the application and report of the Joint Committee Government of NCT Delhi through its Chief Secretary, DPCC through its Member Secretary, DDA through its Vice Chairman, Municipal Corporation of Delhi through its Commissioner and the District Magistrate (South), Delhi were impleaded as respondents no. 1 to 5 and notices were issued to them. In view of the fact that patently false and factually incorrect report was submitted by Mr. Promod Kumar, Director Land Management, DDA, Vikas Sadan, New Delhi, show cause notice was ordered to be issued to him for appearance before this Tribunal in person to show cause as to why appropriate action be not taken against him for filing false/factually incorrect affidavit before this Tribunal.

5. Pursuant to show cause notice Mr. Pramod Kumar, Director Land Management, DDA, Vikas Sadan, New Delhi appeared on 09.11.2023 and

tendered unconditional apology which was accepted and in view thereof the proceedings against him were dropped.

6. Response was filed by SDM, Mehrauli vide email dated 22.05.2024 that the land in question is situated in area which falls within jurisdiction of SDM, Saket.

7. Response was filed by SDM, Saket vide e mail dated 24.05.2023 and by MCD vide email dated 25.05.2023 that the land in question is of DDA and the requisite remedial measures are required to be taken by DDA.

8. Response was filed by DPCC vide email dated 12.05.2023. The relevant part thereof reads as under:-

“RESPONSE ON BEHALF OF DELHI POLLUTION CONTROL COMMITTEE (RESPONDENT NUMBER-2) AND GOVERNMENT OF NCT OF DELHI (RESPONDENT NUMBER-1) IN TERMS TO THE ORDER DATED 10.04.2023.

X X X X
 6. That, at the outset it is submitted that the Chief Secretary, Delhi passed an order dated 06.04.2023 in compliance with this Hon'ble Tribunal order dated 16.02.2023 passed in OA No. 606 of 2018 entitled as "Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues". This order was passed after collecting information from all the stake holder Departments, the present status and action plan in this regard for the purpose of monitoring important parameters for effective Solid Waste Management, the Department wise action plans for solid waste management in Delhi, which is enclosed herewith as Annexures R-2/1. On the issue of 100% Door to Door Collection of MSW, it was decided that:

3.2 100% Door to Door Collection of MSW

MCD, NDMC and DCB confirmed 100% Door to Door Collection of MSW in all their wards / circles as per the SWM Rules, 2016. It was directed that 100% collection shall be continuously ensured, without fail. Ward/circle wise details of Door-to-Door Collection of MSW along with responsible officers is at Annexure 3.

And on the issue of closure of Dhalaos it was ordered:

(a) In the jurisdictional areas of NDMC and DCB there are no dhalaos existing.

(b) In the MCD areas corporation shall ensure closure of existing 638 dhalaos by 31st December 2024 and some Dhalaos are planned to be retained for disposal of silt and street sweeping waste.

7. Subsequent to issuance of this order, Hon'ble LG-Delhi has taken a meeting on 21.04.2023 to review the progress made subsequent to the issuance of the order dated 06.04.2023, as mentioned above.

8. That with regard to dumping of garbage and operation of illegal activity in DDA land, it is most respectfully submitted that, a suitable direction be issued to DDA to raise the height of the broken boundary after repairing it, so that DDA land can not be used as dhalao.

9. In view of the order dated 06.04.2023, passed by the Ld. Chief Secretary, Delhi, as issue is being monitored at the highest level of the Government, further orders may be kept in abeyance."

9. In the course of hearing on 09.11.2023 learned counsel for respondent no. 3-DDA mentioned that the land in question was acquired by DDA and DDA is in possession of the land in question but the acquisition was quashed by Hon'ble Delhi High Court. Appeal filed by DDA was dismissed by the Hon'ble Supreme Court of India. Review application filed by DDA was also dismissed by Hon'ble Supreme Court of India. DDA is in the process of filing miscellaneous application before Hon'ble Supreme Court of India. Respondent no. 3-DDA was directed to file affidavit regarding present status qua the land in question along with copies of orders. No such affidavit has been filed by the DDA.

10. The applicant has not produced any material regarding present status/utilization of the land in question land and has not produced any further material to show any violation of environmental laws/norms warranting any further intervention by this Tribunal.

11. The applicant had appeared on the previous date but the applicant has not appeared today.

12. Rule 20 (1) of the National Green Tribunal (Practices and Procedure) Rules, 2011 provides that where on the date fixed for hearing of the application or appeal, as the case may be, or on any other date to which such hearing may be adjourned the applicant or appellant, as the case may be,

does not appear when the application or appeal, as the case may be, is called for hearing, the Tribunal may in its discretion, either dismiss such application or appeal for default or hear and decide it on merit.

13. In view of the facts and circumstances of the case we consider it appropriate that the application be dismissed for default instead of proceeding to hear and decide the same on merits.

14. Accordingly in view of enabling provision made in Rule 20 (1) of the National Green Tribunal (Practices and Procedure) Rules, 2011 the application is dismissed in default for non-appearance of the applicant.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

April 18th, 2023
AG