

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(By Video Conferencing)
Execution Application No. 24/2022
In
Original Application No. 60/2022

Alka Jain

...Applicant

Versus

North Delhi Municipal Corporation & Ors.

...Respondent

Date of hearing: 12.10.2022

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

Applicant: Mr. Vikrant Pachnanda and Mr. Mukul Katyal, Advocate
alongwith applicant in person.
Ms. Shweta Chauhan, DCP (Central) Delhi and Mr.
Deepak Chandra, ACP, Patel Nagar.
Mr. Narender Pal Singh and Prateek Gupta, Advocates for
DPCC.
Ms. Puja Kalra, Advocate alongwith Mr. Vishra Meena,
Executive Engineer for MCD, Delhi.

**Application under Section 25 read with Sections 26 and 28 of the
National Green Tribunal Act 2010.**

ORDER

1. The applicant has filed the present Execution Application for execution of **order dated 16.02.2022** passed by this Tribunal in **O.A No. 60/2022** titled as **Alka Jain Vs. North Delhi Municipal Corporation & Ors.**

2. The applicant-Ms. Alka Jain filed the above said Original Application against Mr. Mohan Singh residing at house no. 420/06, Teacher Lane, Uper Anand Parbat, Delhi complaining that he is carrying on unauthorized construction and has also kept building material outside his house without taking necessary precautionary measures and the same is causing air pollution.

3. Vide order dated 16.02.2022 passed in above said Original Application, this Tribunal directed the District Magistrate and DCP, Central Zone as well as Commissioner, North Delhi Municipal Corporation to look into the matter and take remedial action within six weeks in accordance with law by following due process and the application was disposed of accordingly.

4. The applicant filed the present execution application claiming that no action has been taken by the above said Authorities in compliance of above said order.

5. Vide order dated 12.09.2022 this Tribunal directed the Member Secretary, DPCC to submit a factual verification and action taken report within six weeks and also directed presence, through Video Conference Facility, of the District Magistrate and Deputy Commissioner of Police, Central Zone and Officer duly authorized by Commissioner, Municipal Corporation of Delhi before this Tribunal.

6. In compliance thereof report of the Joint Committee has been filed by DPCC vide email dated 11.10.2022. The relevant part of the report is reproduced as under:-

“STATUS REPORT ON BEHALF OF DELHI POLLUTION CONTROL COMMITTEE WITH RESPECT TO ORDER DATED 12.09.2022.

IT IS MOST RESPECTFULLY SHOWETH:

- 1. That this Hon'ble Tribunal took up the above referred matter on 12.09.2022 and was pleased to direct the Member Secretary, DPCC to submit physical verification of the site and action taken report thereof.*
- 2. That, this Hon'ble Tribunal has not issued any direction to DPCC while disposing off the Original Application Number 60/2022 on 16.02.2022. DPCC was not amongst the array of respondent in the respondent in Original Application Number 60/2022.*
- 3. That, MCD has provided its Status report to DPCC, wherein it has been mentioned that MCD has taken an encroachment removal action against the building material stacked outside the House No. 420/06, Teacher Lane, Upper Anand Parbat, Central Delhi, on 23.09.2022. During action whatever building material was lying has been removed completely. Photographs of the same have been annexed with the report. Copy of the*

status report of MCD alongwith photographs is enclosed herewith as ANNEXURE-1(Collv).

4. *That, to check the contents of the MCD report, Delhi Pollution Control Committee officials inspected the site on 10.10.2022 and following are the observations:*

- *No Building material found stored at the said road stretch.*
- *Local enquiry revealed that MCD has already removed building material lying on the stretch few days back.*

Copy of the inspection report dated 10.10.2022 alongwith photographs is enclosed herewith as ANNEXURE-2 (Cony).

5. *That, in view of action taken by MCD and physical inspection carried out by DPCC, no action is required to be taken at this juncture.....”*

7. Copy of Status Report of action taken on behalf of respondent/MCD (North DMC) has been sent by DPCC along with its report. In the Status Report, Mr. Rajesh Gupta, Executive Engineer (M)-II, Karol Bagh Zone has stated that the Department has taken an encroachment removal action against the building material etc., stacked outside the House No. 420/06, Teacher Lane, Upper Anand Parbat, Central, Delhi on 23.09.2022. During action whatever building material was lying has been removed completely. The photographs taken during the action have been attached with the Status Report as annexure A.

8. The applicant has sent photographs of the site taken on 08.10.2022 through email dated 11.10.2022 showing dumping of the construction material on the site in question.

9. In the present case the construction material is stated to have been removed on 23.09.2022 as shown by photographs taken by official of the MCD on that date but subsequently the construction material is stated to be lying there on 08.10.2022 as shown by the photographs taken by the applicant and the same appears to have been again removed as shown by photographs taken by official of the DPCC on 10.10.2022.

10. Ms. Shweta Chauhan, DCP (Central) Delhi and Mr. Deepak Chandra, ACP, Patel Nagar have appeared through video conferencing and Ms. Puja Kalra, Advocate has appeared on behalf of Municipal Corporation of Delhi with Executive Engineer, MCD who has appeared through VC. .

11. None has appeared on behalf of District Magistrate (Central), Delhi. No application for exemption from appearance has been received from the District Magistrate (Central), Delhi. In fact, the District Magistrate (Central), Delhi has not sent any communication what so ever to this Tribunal.

12. It may be observed that the District Magistrate and the Deputy Commissioner, Central Zone and Commissioner, NDMC (now MCD) were bound under the statutory provisions including the provisions made in The Environment (Protection) Act, 1986 for protection of environment, the Code of Criminal Procedure, 1973 for removal of public nuisance and the Construction and Demolition Waste Management Rules, 2016 for disposal of construction and demolition waste material respectively. That was apparently the reason due to which this Tribunal directed them to look into the matter and take remedial action in accordance with law following due process. However, it appears that no action has been taken by them in compliance of order dated 16.02.2022.

13. Despite having being conveyed order dated 12.09.2022 passed by this Tribunal requiring the District Magistrate, Central Zone to be present before this Tribunal through VC, he has not appeared before this Tribunal. All instrumentalities of State, including Administrative Authorities, are bound to uphold the Constitution and the laws and take requisite action, including implementing the Court orders, for maintaining rule of law. Access to justice is a fundamental right guaranteed by article 21 of the Constitution of India which cannot be violated by any of the instrumentalities of the State. The District Magistrate and the DCP, Central Zone and Commissioner, NDMC

(now MCD) appear to have ignored order dated 16.02.2022 passed by this Tribunal on the original application requiring them to look into the matter and take remedial action.

14. The District Magistrate, Central Zone also appears to have ignored the order dated 12.09.2022 passed by this Tribunal on the present execution application requiring him to appear before this Tribunal through VC. Such in-action, in-sensitivity and non-compliance to orders of this Tribunal on the part of the District Magistrate, Central Zone, which has also caused unnecessary inconvenience to the applicant and unnecessary adjournment in the hearing of the case, cannot be ignored. In view of the facts and circumstances of the case, we consider it appropriate to impose and accordingly impose costs of Rs.10,000/- on District Magistrate, Central Zone which shall be paid to the applicant on the next date of hearing.

15. We have interacted with DCP, Central Zone who could not inform us about any action taken in compliance with order dated 16.02.2022 passed by this Tribunal in **O.A No. 60/2022 titled as Alka Jain Vs. North Delhi Municipal Corporation & Ors.** the Executive Engineer, MCD could not make any communication to us due to some technical problem on his part. In the peculiar facts and circumstances, we consider presence of the District Magistrate and the DCP, Central Zone and the concerned Officer Incharge of concerned branch/division of the NDMC) (now MCD) before this Tribunal to be essential to apprise this Tribunal regarding action taken in compliance with order dated 16.02.2022 passed by this Tribunal and also assisting this Tribunal in resolution of the issues involved in the present execution application.

16. Notice be also issued to the respondent-4-Project Proponent- Mohan Singh requiring him to file his reply within three weeks at judicial-ngt@gov.in

preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

17. The DPCC is directed to verify the facts as to who had dumped the construction/demolition materials on the site in question and take appropriate action for imposition of environmental compensation by issuing notice to the person concern and following due process of law and submit its action taken report within six weeks by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

18. List for consideration on 16.12.2022.

19. A copy of this order be forwarded to the Chief Secretary, Government of NCT of Delhi, the District Magistrate and the DCP (Central Zone), Delhi and Commissioner, Municipal Corporation of Delhi for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

October 12, 2022

AG