

IN THE HIGH COURT OF DELHI AT NEW DELHI

C.M.NO. OF 2013

IN

WRIT PETITION (CIVIL) NO. 3791 OF 2000

IN THE MATTER OF :

COMMON CAUSE

(A registered Society)

...PETITIONER

Versus

UNION OF INDIA

.

...RESPONDENT

**AN APPLICATION FOR CERTAIN INTERIM DIRECTIONS UNDER
SECTION 151 OF THE CIVIL PROCEDURE CODE**

THE APPLICANT ABOVENAMED

MOST RESPECTFULLY SHOWETH :

1. The Petitioner Society has undertaken a close study of the status reports filed by the Respondent no. 2, Govt. of NCT of Delhi, Delhi Jal Board and the Municipal Corporation of Delhi, the correspondence with the Veterinary Services Department and the

detailed orders of this Hon'ble Court. It has also carried out an impressionistic survey of Ghogha Colony and a random sample of dairies elsewhere, As a result of this exercise, the Petitioner Society has observed the following discrepancies.

Water:

As per report

- Commissioner, Municipal Corporation of Delhi (MCD) specifically states in his letter dated July 22, 2009 to CEO, Delhi Jal Board (DJB), "However the allottees are not in a position to establish their dairies in the absence of potable water supply...." (page 1695).
- It is admitted by Commissioner MCD in his letter dated October 29, 2009 to Principal Secretary to the Chief minister that 160 allottees, who had taken over possession of their plots in Ghogha, were not in a position to construct cattle sheds in the absence of basic amenities like electricity and water supply (page 1696).
- An amount of Rs. 3,25,99,620 was paid by MCD to DJB for execution of a deposit work for laying the pipeline network and associated facilities (page 1698).
- The Bawana plant would not be functional until the dispute with Haryana on water release was resolved (page 1868).
- MCD would pay for potable water tankers as per the request made by zonal authorities (page 1816).
- As per the status report on water supply to Ghogha Dairy from December 2012 onwards given by Chief Engineer, DJB, the Board is supplying 3-4 water tankers per day (page 1880). Bills to this effect have also been annexed with the report (page 1867).

Factual position:

- The Bawana plant is still not functional.
- The water supplied is not potable, resulting in high morbidity of the cattle.
- The residents of Ghogha informed orally that only one tanker per day is provided by the MCD for around 48 dairies in the entire colony.

Establishment of Veterinary Hospital:**As per report**

- MCD had requested the Director, Animal Husbandry Department, on September 21, 2010 to expedite the construction of a veterinary hospital in Ghogha dairy colony and deploy the requisite professional/technical manpower to manage it (page 1703).
- The Animal Husbandry department of GNCTD has established a veterinary hospital at Ghogha with deployment of a doctor and para veterinary staff to provide the facilities of vaccination and treatment for the relocated animals (page 1816).

Factual Position:

- The hospital does not have the requisite staff and the doctor is mostly unavailable, or engaged in his private practice.
- The hospital lacks basic equipment for even minor operations.
- The refrigerator that has been provided to store life-saving drugs had no electricity. As a result, the drugs had become useless.
- Electricity connection had been severed on account of nonpayment of electricity bills.
- The entry made in the register maintained clearly indicated that it had been fudged.

The website of Government of Delhi, Animal Husbandry Unit, Development Department, shows that more than 50 doctors have been posted in veterinary hospitals in various zones of the National Capital, whereas, only one veterinary doctor has been posted at Ghogha to attend to 1,432 relocated dairies.

Electricity:

As per report:

- The electricity infrastructure is complete and connections would be released as and when the applicants apply for the same (page 1737).

Factual position:

- Though electricity connections have been provided to individual dairy owners, the meters installed are of the commercial category. Hence, the residents are unable to use the electricity on account of high tariff. No street lights were functional on the day of the survey.

MCD Office/Camp Office:**As per report:**

A camp office comprising four rooms and a conference room has been constructed at the project site and will be handed over to the staff engaged in routine monitoring of the project (page 1736).

Factual position:

There existed a few rooms without door/window frames, or furniture, where Home Guard personnel were enjoying their afternoon siesta. A board displayed the names and contact numbers of the officials posted there. However, not a single official was to be seen.

Credibility of Affidavits:

- Factually incorrect and contradictory statements have been submitted by way of affidavit.
- Affidavit/status report dated March 26, 2013 claims that 57 plots have operational dairies (page 1893).
- Affidavit/status report dated April 25, 2013 states that 51 plots have operational dairies (page 1907); there is no explanation for the difference in numbers or any information why and where these six dairies have gone.
- Affidavits submitted do not furnish the original addresses of the dairies that have been shifted to Ghogha.

Other Discrepancies:

- No schools, sanitation, market, hospital, or public transport has been provided to the hapless residents of Ghogha dairy colony. It is a desolate place with a few concrete structures. The residents complained that most of the dairies at places like Sahibabad, Jharounda (Bukhari), Shalimaar Bagh, Pitampura, Rohini, Balsaawaa, Nangloi, and Uttam Nagar were still operating.
- A limited survey conducted by the Petitioner Society within its resource constraints showed that dairies were in existence at Shalimar Bagh, Masoodpur near Vasant Kunj, Goela, Nangloi, and Kakrola

2. The PIL filed by the Petitioner Society was disposed of by this Hon'ble Court's order dated December 16, 2002 with directions to the Government of National Capital Territory of Delhi, Municipal Corporation of Delhi and New Delhi Municipal Council to take steps for putting an end to the menace of stray cattle in Delhi. Thereafter, the following directions were given from time to time by this Hon'ble Court to address the menace of stray cattle.

3. On September 17, 2008:

“The present PIL was disposed of by an order dated 16th December 2002 with directions to the Government of National Capital Territory of Delhi, Municipal Corporation of Delhi and New Delhi Municipal Council to take steps for stopping menace of stray cattle in Delhi. The matter was again listed for directions on 31st May 2007 and the following directions were passed:

“(1) The MCD shall adhere to the time schedule set out in para 16 of this order and complete the process of allotment of plots and relocation of the dairies before the date indicated in the said schedule.

(2) The MCD shall introduce the additional fleet of twelve Hydraulic trucks with effect from 30th June 2007, constitute proper task force for use of the said trucks to ensure that the roads are free from stray cattle.

(3) The Commissioner, MCD shall formulate a proper licensing policy and enforce the provisions of Section 417 of the Delhi Municipal Corporation Act, 1957. The licenses issued to the dairy owners whether authorized or unauthorized, shall be without prejudice to the relocation scheme formulated by the MCD.

(4) CM 1731/2007 is disposed of with liberty to the MCD to cancel all bookings and allotments found to be fraudulent and bogus.....

The MCD shall file a compliance report on or before the 31st August 2008. In case the directions issued by this Court are not complied with in letter and spirit, the Commissioner of MCD shall remain present in person to explain as to why suitable action for defiance of the orders passed by this Court be not initiated against him?”

4. On 17.9.2008:

“The MCD has now moved three applications CM Nos. 12657-60 of 2008 expressing difficulties in implementing the above directions. The MCD is also complaining that the other agencies including the Delhi Police and the electricity distribution companies are not cooperating with it in implementing the above directions.

The MCD, NDMC, GNCTD, Delhi Police and electricity distribution companies are directed to file a joint status report regarding the implementation of the directions mentioned above within four weeks from today. In order to prepare the joint status report, the Chief Secretary, GNCTD shall convene a meeting of the concerned bodies within two weeks from today.....”.

5. On 15.09.2010 (with reference to CM 12142/2010 filed by the MCD):

“This is an application for grant of extension of time of one year to complete the relocation process of the illegal dairies from the urban areas of the City of Delhi to the Ghogha Dairy Colony and to carry out other directions.

Having heard Ms. Madhu Tewatia, learned counsel for the applicant-MCD, and Ms. Meera Bhatia, learned counsel for the respondent-original petitioner, we extend the time till the end of September, 2011. Be it noted, if the order is not carried out, the deponent, namely, the Director, Veterinary Services Department, Municipal Corporation of Delhi as well as the Commissioner of Municipal Corporation of Delhi shall be liable for contempt of this Court. Be it noted, as we have granted the time as prayed for, this Court at that juncture may consider to punish them. With the aforesaid directions, the application stands allowed.

Order dasti under the signatures of the Court Master.”

6. The order dated 16.05.2012 in CM No. 16527/2011 (for directions) observed as follows:

“The status reports have been filed. The shifting of the dairies is still incomplete. The problem of water supplies at the relocated place persists and it is stated that the water is being supplied only through tankers and two tubewells till the Bawana Plant becomes functional. Till date, the fate of the water supply from the Bawana Plant has not been set out before us. This issue has been in question for considerable period of time and we expect the respondents to take up this matter with the concerned authorities to place before us the final conclusion of the discussion, so that a specified date is available. Let fresh status reports be filed at least three days prior to the next date of hearing.

In the order dated 12.9.2012 it revealed that Status reports have been filed by DJB and GNCTD. The status report of GNCTD is under the signatures of Chief Secretary who was entrusted with the task of coordinating between the different entities. Learned counsel for MCD states that the work is in progress as is reflected from the status report and 4-6 weeks time is required to complete the same. The issue of drinking water appears to be a long term problem as at present the supplies are met through tankers and the DJB is hoping for augmentation of supply only after commissioning of plant at Bawana and supply through Munak Canal. Let fresh status report be filed under the signatures of the Chief Secretary within six weeks from today.”

7. In the order dated 01.03.2013 this Hon'ble Court observed as follows:

“The status report filed under the signatures of the Chief Secretary states that out of 1435 dairies, 1416 dairies have been removed. Learned counsel for the MCD states that post the status report another three (3) dairies have been removed leaving only 16 dairies out of which there are stated to be two (2) dairies which are protected by stay orders. Learned counsel assures that the needful will be done within a maximum period of four (4) weeks, as prayed. for.

The DJB has also filed a separate status report which again reiterates that the water problem can be finally solved only with the commissioning of the Bawana Plant but in the mean time arrangement is being made for supply through tankers”.

8. The petitioners would submit that in this Hon'ble Court's order dated September 15, 2010 in CM 12142/2010, the civic agencies have been granted time for completing the task at hand and have been reprimanded for the unconscionable delays in compliance:

“This is an application for grant of extension of time of one year to complete the relocation process of the illegal dairies from the urban areas of the City of Delhi to the Ghogha Dairy Colony and to carry out other directions.

Having heard Ms. Madhu Tewatia, learned counsel for the applicant-MCD, and Ms. Meera Bhatia, learned counsel for the respondent-original petitioner, we extend the time till the end of September, 2011. Be it noted, if the order is not carried out, the deponent, namely,

the Director, Veterinary Services Department, Municipal Corporation of Delhi as well as the Commissioner of Municipal Corporation of Delhi shall be liable for contempt of this Court. Be it noted, as we have granted the time as prayed for, this Court at that juncture may consider to punish them. With the aforesaid directions, the application stands allowed. Order dasti under the signatures of the Court Master.”

The lackadaisical attitude of these civic agencies can be gauged from the fact that even after a lapse of more than three years from the date of this order, they have failed to do the needful.

9. A fresh status report was filed dated 26.4.2013. It was stated that out of 1435 dairies 1432 dairies have been removed from different zones and at present dairies are running on 51 plots in Ghogha Dairy Colony while 135 dairies are under construction. It was also stated that seventy five percent of the cattle sheds are nearing completion. The remaining three dairies were said to be covered by interim orders of the Courts.

It may be mentioned here that none of the status reports was served on the petitioner. It was only when the petitioner succeeded in procuring copies of these reports after a protracted struggle that the facts mentioned above came to the petitioner's notice.

10. In view of the glaring discrepancies regarding the number of dairies that have actually been shifted, as well as the level of infrastructural development attained at Ghogha Colony, the respondents may be directed to file affidavits giving the names, erstwhile locations and present addresses of the dairies which have been relocated, the details of

functional common facilities established and the level of services provided, so that the veracity of the claims made may be established.

11. This application is made *bona fide* and in public interest.

PRAYER

In the circumstances stated above, this Hon'ble Court may be pleased to:

- a. Appoint Court Commissioners to undertake a comprehensive inquiry into the current status of the stray cattle menace in the National Capital Territory and ascertain the fate of the displaced dairies as well as the ground realities at Ghogha Colony, particularly the functioning of the infrastructural facilities claimed to have been established;

And

- b. Pass such further order or orders as deemed fit by this Hon'ble Court in public interest.

APPLICANT

Through

(Meera Bhatia)

Counsel for the petitioner

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A F F I D A V I T

I, Kamal Kant Jaswal, aged about 69 years, R/o A 294, The Belaire, Golf Course Road, DLF Phase V, Gurgaon- 122002, do hereby take oath and state on solemn affirmation as under:-

1. That I am the Director of the Petitioner Society having office at 5, Institutional Area, Nelson Mandela Road, Vasant Kunj, New Delhi- 110070 and am well conversant with the facts of the case and hence competent to swear this affidavit.
2. That the accompanying application for certain interim directions under section 151 of the Civil Procedure Code has been drafted by my counsel under my instructions, and the contents thereof are true to the best of my knowledge derived from the public domain and that the rest are legal submissions and prayers to this Hon'ble Court.

D E P O N E N T

VERIFICATION:

Verified at New Delhi on this the 22nd day of Oct, 2013 that the contents of this affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

D E P O N E N T