



2024:DHC:8882-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 638/2024, CM APPL. 2793/2024, CM APPL. 6077/2024,
CM APPL. 10222/2024, CM APPL. 10223/2024, CM APPL.
27052/2024, CM APPL. 27387/2024 & CM APPL. 27388/2024

JAMIA ARABIA NIZAMIA WELFARE EDUCATION SOCIETY

.....Petitioner

Through: Mr. Rakesh Lakra, Mr. Bhavya
Sharma, Ms. Kanika Sharma and
Ms. Shivani Kher, Advocates

versus

**DELHI DEVELOPMENT AUTHORITY THROUGH
ITS VICE CHAIRMAN & ORS.**

.....Respondents

Through: Mr. Sanjay Poddar, Senior Advocate
and Ms. Shobhana Takiar, Standing
Counsel with Mr. Prateek Dhir, Mr.
Shivani Takiar, Mr. Kuljeet Singh,
Mr. Govind Kumar, Ms. Chand
Chopra and Ms. Neha Bhupathiraju,
Advocate for R-1/DDA.
Mr. Pavan Narang, SPC with Mr.
Himanshu Sethi and Ms. Aishwarya
Chhabra, Advocates for R-3, 4 and
6.
Ms. Farhat Jahan Rehmani, ASC
with Mr. Monis Raridi, Advocate for
Delhi Waqf Board.
Mr. Ripudaman Bhardwaj, SPP with
Mr. Kushagra Kumar, Mr. Abhinav
Bhardwaj and Mr. Ravinder Kumar
Bharti, Advocates for CBI.
Mr. Ajjay Aroraa and Mr. Kapil
Dutta, Advocates for MCD.
S.I. Aman Kumar, P.S. H. N. Din.
Mr. M. Arshyan, Proxy Counsel for
applicant Mr. Babu Ali.

Date of Decision: 13th November, 2024



CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGEMENT

MANMOHAN, CJ: (ORAL)

1. Present Public Interest Litigation had been filed seeking action against officials of the respondents who had allowed the encroachers to carry out unauthorized/illegal construction at Khasra no. 556, Ziyarat Guest House, near Baoli Gate, Hazrat Nizamuddin Dargah, near Police Booth. The petitioner had also sought a direction to demolish the said illegal and unauthorized construction.

2. When the matter was listed for the first time on 16th January, 2024, this Court was informed that despite the petitioner's representation dated 3rd November, 2023 to the respondents highlighting the illegal construction being carried out at Ziyarat Guest House and the Archaeological Survey of India (ASI) issuing a Work Stop Notice dated 11th December, 2023, the statutory authorities had failed to take any action. Since learned counsel for ASI had stated that it had written a letter dated 2nd January, 2024 to the SHO, Nizamuddin (West) to register an FIR, this Court had observed that, *prima facie*, illegal and unauthorized construction was taking place with the tacit support, if not active connivance of statutory authorities and hence directed the respondents to ensure that no further construction was carried out at Ziyarat Guest House arrayed as respondent no.5.

3. Thereafter, on 1st February, 2024, an impleadment application was filed by Mr. Babu Ali, who claimed himself to be the new owner of Ziyarat Guest House. At that time, learned counsel for MCD had stated that despite sealing the first and second floor of the said property, the erstwhile owner namely, Mr. Raisuddin sold the property to Mr. Babu Ali. He stated that



Mr. Babu Ali not only entered the said sealed property but also carried out construction of third, fourth and fifth floors. It was further stated that even the ground and the first floor of the said property were illegal and unauthorised as the land in question belonged to DDA. He had further stated that substantial demolition had been carried out by the MCD on the third, fourth and fifth floors of the subject property. Learned counsel for the DDA had stated that the subject property falls in Khasra No. 556 Min. of Aliganj Revenue Estate, which is government land placed at the disposal of the DDA pursuant to the Nazul Agreement dated 31st March, 1937.

4. Learned counsel for the Delhi Police had stated that on 17th January, 2024, it had registered an FIR No.0024 on the basis of a letter dated 2nd January, 2024 received by the SHO from the office of Conservation Assistant, ASI, Humayun's Tomb.

5. In view of the aforesaid submissions and upon finding encroachment on public land coupled with illegal and unauthorised constructions at such a massive scale had taken place in the heart of Delhi, that too virtually under the nose of officials of the MCD, DDA, ASI and Police, this Court *vide* order dated 1st February, 2024 had noted that, *prima facie*, the matter required to be investigated by the Central Bureau of Investigation (CBI).

6. On 7th and 8th February, 2024, the Deputy Commissioner, MCD admitted before the Court that MCD had received written information from Delhi Police as far back as 23rd October, 2023 and 8th November, 2023 about the illegal and unauthorized construction being carried out at Ziyarat Guest House. She had stated that the said information had been marked to the Junior Engineer (JE) who did not take any action. It was further admitted that despite fresh intimation from the Delhi Police on 9th December, 2023 and from the ASI on 11th December, 2023 and on 2nd January, 2024, the new JE and the Assistant Engineer (AE) had not taken



any action. No action was taken even on the representation filed by the petitioner dated 3rd November, 2023 to the Commissioner, MCD.

7. Subsequently, an application being C.M. No. 8584/2024 was filed by Mr. Babu Ali in which it was stated that the owner of the land is Delhi Waqf Board, and not the DDA. Though during the hearing, learned counsel for Mr. Babu Ali had admitted that construction of third, fourth and fifth floors were illegal, yet he had contended that at least the ground to second floors were old constructions which were entitled to protection under the National Capital Territory or Delhi Laws (Special Provision) Act, 2007. To claim benefit under the Act, 2007, it was stated that Mr. Babu Ali had filed proceedings before the MCD Appellate Tribunal. In the application, it had also been averred that the petitioner is a habitual litigant who had filed as many as thirty four cases with intent to extort money. It was also averred that the petitioner is an encroacher too.

8. Learned counsel for MCD had stated that the property would have been entitled to protection under the National Capital Territory of Delhi Laws (Special Provisions) Act had it not been hit by Section 4(a) read with Section 3(2) of the said Act. He further stated that the property in question was on encroached Public Land (DDA/Waqf Board) and therefore, no protection could have been claimed by Mr. Babu Ali. Moreover, according to him, even if it is presumed that the property was entitled to any kind of protection, the said protection would have lapsed the moment *status quo* of the property had been violated by Mr. Babu Ali by construction of three additional floors. This Court had agreed with the submission of learned counsel for MCD.

9. On 20th February, 2024, the Delhi Waqf Board had filed an application for impleadment stating that the land in question is under the management and control of the Waqf Board. In support of its contention,



the Waqf Board had relied upon a decree dated 24th September, 2015 passed by a Civil Judge, West District, Tis Hazari in Suit No. 416/2014. Reliance was also placed upon the Gazette Notification dated 4th May, 1978 in which the land in question is referred to at serial No. 37 as a Muslim graveyard containing a *makbara* and graves. This Court had pointed out that even if Waqf's claim was presumed to be correct, it was not understood as to how a graveyard had been converted into a hotel.

10. It is pertinent to note that on 20th February, 2024, learned counsel for the MCD and DDA had stated that the property in question had been fully demolished and a Board stating that the land in question belonged to DDA had been affixed as on 15th February, 2024.

11. Upon hearing the learned counsel for the parties, this Court had passed a detailed order on 20th February, 2024, directing the case to be transferred for investigation from the Delhi Police to the CBI, who was directed to examine the facts threadbare and take the matter to its logical conclusion by filing supplementary/additional FIRs in the event any criminal offence was made out. Accordingly, CBI was impleaded as party respondent and was directed to file its Status Report. It was also noted that the issue whether Waqf Board facilitated the sale, change of nature of the property and the illegal and unauthorized construction as well as the allegations against the petitioner, though vehemently denied, needed to be examined too. That apart, the Commissioner, MCD and the Vice-Chairman, DDA were directed to ensure that inquiries were set up and responsibility was fixed for large scale illegal and unauthorised construction in Nizamuddin West. Consequently, this Court directed the Vice-Chairman, DDA and Commissioner, MCD to put in place structural reforms and devise new strategies to deal with the menace of encroachment as well as illegal and unauthorized construction and place the Minutes of



Meeting on record within eight (8) weeks. The relevant portion of the order dated 20th February, 2024 is reproduced herein below:-

“ ...

20. *From the documents on record, it is also not clear as to how the property got converted from a graveyard containing a makbara and graves to a single room godown to a two-storied building and finally to a five-storied building. No permissions/ sanctions from any statutory authority have been placed on record.*

21. *However, from the aforesaid facts, it is apparent that despite multiplicity of authorities and an elaborate system of checks and balances, illegal and unauthorized construction is going on at a scale previously unheard of and that too in the heart of Delhi. It seems there is no respect for law amongst thebuilders courtesy the attitude of ‘passing the buck’ adopted by the respondents.*

22. *Moreover, even if there is a dispute as to the ownership of the land between the Waqf Board and the DDA, this Court has not understood as to how the property has changed hands and further to how fresh construction has been carried out. It is pertinent to mention that the property in question is only a stone throw away from a local police booth.*

23. *The issue whether Waqf Board facilitated the sale, change of nature of the property and the illegal and unauthorized construction would also have to be examined.*

24. *The allegations against the petitioner, though vehemently denied, need to be examined also.*

25. *It is also apparent that administrative responsibility needs to be fixed and the role of the parties needs to be examined. Accordingly, the Commissioner, MCD and the Vice-Chairman, DDA are directed to ensure that inquiries are set up and responsibility is fixed for large scale illegal and unauthorised construction in Nizamuddin West.*

26. *Since an FIR has already been registered by the local police, this Court directs transfer of investigation of the said FIR to the Central Bureau of Investigation (CBI) who is directed to examine the facts threadbare and take the matter to its logical conclusion by filing supplementary/additional FIRs in the event any criminal offence is made out. The CBI is impleaded as a respondent party in the present proceedings and is directed to file a status report within eight weeks. The petitioner is directed to file an amended memo of parties within a week.*

27. *This Court is further of the view that structural reforms are required in the working of the respondents to deal with illegal and unauthorized constructions of such giant magnitude. The issue of overlapping of jurisdiction needs to be resolved by issuing clear and cogent practice directions.*

28. *It is also strange that in today’s time MCD is continuing to use threads, tapes, strings and bandages to seal a property and is only normally puncturing the roofs partially in the name of demolition. No wonder, the*



sealing and demolition actions are having no deterrent effect. The Executive seems to be satisfied with the status quo and is unwilling to reform the system by using easily accessible technology like drones, satellite images, digital maps, etc. which would easily detect encroachment and unauthorized construction at such a massive scale.

29. Consequently, this Court directs the Vice-Chairman, DDA and Commissioner, MCD to put in place structural reforms and devise new strategies to deal with the menace of encroachment as well as illegal and unauthorized construction. Let the minutes of meeting be placed on record within eight weeks.”

12. Pursuant to the aforesaid directions, on 7th May 2024, the MCD through its Executive Engineer Building-I as well as DDA through its Deputy Director, LM/Central, had filed their respective Status Reports. Along with the same, Minutes of Meeting dated 18th April, 2024 held between the Vice Chairman, DDA and the Commissioner, MCD on 12th April, 2024 was placed on record and was extracted in the order dated 7th May, 2024.

13. Copies of the Circular dated 29th January, 2024, Corrigendum dated 30th August, 2024, office order dated 20th September, 2024 issued by MCD and office order dated 15th May, 2024 issued by Member Secretary, STF pertaining to demolition and sealing of unauthorized construction issued from time to time are reproduced herein below:-

Circular dated 29th January, 2024

**“MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE CHIEF ENGINEER (BLDG) HQ
9TH FLOOR: E-1 WING, DR. S.P.M. CIVIC CENTRE
JAWAHAR LAL NEHRU MARG: NEW DELHI – 110002.**

**No. D/95/CE/Bldg HQ/MCD/2024
29.01.2024**

C I R C U L A R

**Subject: Standard Operating Procedure for Demolition and Sealing
against Unauthorized Constructions**

A Standard Operating Procedure to take demolition and sealing actions



against the unauthorized constructions and to ease the process has been devised, as given hereinunder:

- i. As soon as any unauthorized construction is detected, First Information Report (F.I.R.) is to be prepared by the Junior Engineer in a printed book duly numbered. It is to be ensured that all columns of this F.I.R. are carefully and diligently filled-up. For proper identification of the property, the geo-coordinates of the property be mentioned.
- ii. The F.I.R. has to be put up to the next superior officer i.e. Assistant Engineer on the very same day for passing appropriate directions.
- iii. According to the directions of the Assistant Engineer, a Show Cause Notice under section 344 (1) and section 343 shall be prepared by the Junior Engineer and shall be issued under the signatures of the Assistant Engineer thereby giving an opportunity to the Owner / Occupier / Builder for submitting the reply to the Show Cause Notice within three (03) working days from the service of the same. The F.I.R. and notices shall be entered in the 'Misal Band' register on the same day by Office In-charge (O.I.).
- iv. The notice is to be served to the Owner/Occupier / Builder as per the Section 444 of DMC Act, 1957.
- v. A letter under Section 344 (2) of DMC Act, 1957 is to be issued to the Police authorities to remove such persons and all his assistance and workmen from the premises or to seize any construction material, tools, machinery, scaffolding or other things used in erection of any building.
- vi. After expiry of Show Cause Notice period, Assistant Engineer will pass Demolition Order under Section 343 of the DMC Act, 1957 by giving six (06) days time to Owner / Builder / Occupier to demolish the unauthorized construction at their own upon receipt of Demolition Order.
- vii. After expiry of stipulated period as mentioned in the demolition order issued by the Assistant Engineer under Section 343 of the DMC Act, 1957, the Junior Engineer will bring the facts on record regarding the compliance of the demolition order. In case of non-compliance of demolition order, Assistant Engineer will consign the file to Office in-charge (O.I.) for demolition purposes.
- viii. The inter-se priority for demolition of unauthorized construction will be fixed, by the guiding principle being that in the same category {except category reflected (a) below}, unauthorized construction, wherein demolition orders have been passed last, will be demolished first. The OI(Bldg.) shall hand-over the files to the concerned JE(Bldg.) for demolition as per the priorities given below:-



- a) *Where any directions/orders passed by any court of law;*
 - b) *Unauthorized construction of new colonies on green / agriculture land/private land;*
 - c) *Cases of unauthorized construction of commercial nature without prior sanction of building plans;*
 - d) *Cases of unauthorized construction of residential nature without prior sanction of building plans;*
 - e) *All cases of commercial as well as residential nature where sanction of building plans is revoked;*
 - f) *Cases which are specifically referred by L.G., Ministry and Public Grievance Commission or any statutory body,*
 - g) *Cases of unauthorized construction affected by any scheme or coming in the Right-of-Way of roads;*
 - h) *All other cases which are not covered above.*
- ix. *The action for sealing of the property shall be initiated simultaneously under Section 345-A of the DMC Act. Show Cause Notice under the signatures of Zonal Deputy Commissioner i.e. competent authority shall also be served upon the Owner/Builder/Occupier in accordance with Section 444 of the DMC Act-1957 to submit the reply to the Show Cause Notice within three (03) working days.*
- x. *The competent authority shall pass necessary order for sealing of unauthorized construction under section 345-A of the DMC Act, 1957 after expiry of the period of Show Cause Notice served upon the Owner/Builder/ Occupier.*
- xi. *The demolition / sealing action programmes to take necessary demolition and sealing action shall be drawn in accordance with the aforesaid policy for priority. The letters to the Police Authorities for providing police force on the scheduled date of action shall be sent.*
- xii. *The demolition and sealing actions shall accordingly be taken by the Department as per the scheduled programme.*
- xiii. *All endeavours shall be made by the Department to ensure that strong demolition action is taken.*
- xiv. *After taking the demolition and sealing action, letters to the Police Authorities shall be sent to keep vigil and watch at site. It be informed to the Police Authorities to take legal action against the offender in case any instance of re-construction of demolished portion/floor/property or any instance of tampering of seal comes to their notice. This will diminish any scope of further unauthorized construction.*

All concerned are directed to comply with the aforesaid procedure in true letter and spirit. Non-compliance of the instructions will be viewed seriously and stern action will be taken against the defaulting official.



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This issues with prior approval of the Competent Authority.

Chief Engineer (Bldg) HQ"

Corrigendum dated 30th August, 2024

**"MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE CHIEF ENGINEER (BLDG) HQ
9TH FLOOR: E-1 WING, DR. S.P.M. CIVIC CENTRE
JAWAHAR LAL NEHRU MARG: NEW DELHI – 110002.**

**No.CE(B) HQ/2024/D.60
30.08.2024**

Dated :

CORRIGENDUM

Subject:	Standard Operating Procedure (SOP) for Demolition and Sealing against Unauthorized Constructions – Reg.
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Para(xiii) of the Circular No.D/95/CE/Bldg.HQ/MCD/2024 dated 29.01.2024 on the subject matter is modified as under:

(xiii) "It has been observed that the unauthorized constructions have been reported as demolished, but have rather been found to have expanded/grown in size. This indicates that demolition was cosmetic and ineffective. Hon'ble High Court of Delhi has also taken adverse view of this state of affairs.

Therefore, the Department should carry out complete demolition of unauthorized constructions. That means, unauthorized construction needs to be effectively removed. When the entire building is unauthorized, the whole unauthorized building/structure including its load bearing elements should be demolished/razed to ground. Necessary safety measures may be taken in the process".

Regarding recovery of 'Demolition Charges', new Para No.xv of the subject SOP be read as under

(xv) "For the purpose of recovery of outstanding Demolition charges from the defaulting owners/occupiers / allottees, the powers have been delegated to Zonal Deputy Commissioners vide Office Order No.D-1418/COM/MCD/2023 dated 29.12.2023 (copy enclosed)

As such, Zonal Deputy Commissioner should take steps to effect the recovery of demolition charges."

Rest of the contents of the Circular No.D/95/CE/Bldg.HQ/MCD/2024 dated 29.01.2024 will remain unchanged.



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This issues with the prior approval of the Competent Authority

Encl: As above.

Chief Engineer (Bldg.) HQ”

Office Order dated 20th September, 2024

**“MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE CHIEF ENGINEER (BLDG) HQ
9TH FLOOR: E-1 WING, DR. S.P.M. CIVIC CENTRE
JAWAHAR LAL NEHRU MARG: NEW DELHI – 110002.**

No.CE(B)HQ/2024/D-67

Dated: 20.09.2024

OFFICE ORDER

Subject: Mode, Manner & Method for Sealing of Unauthorised Constructions in properties situated within the jurisdiction of MCD.

1. The Delhi Municipal Corporation (sealing of unauthorized construction) Rules, 1986 notified vide Notification No.F.1/32/77-LSG Vol.III-Policy dated 10.02.1986 inter alia provides as under:-

“...3 - (5) The person, Municipal officer or the Municipal Employee, as referred to in Sub-rule(1) may seal the outer door or the opening of the building in which the unauthorised construction has been or is being made or unauthorised construction after ensuring that other outlets and inlets of the premises or unauthorised construction have been properly locked, bolted or encircled with wire rope or wire-mesh or any other material and where such premises or construction cannot be enclosed with wire rope or wire-mesh or any other material or has no boundary walls making the sealing thereof difficult, the person, Municipal employee as aforesaid, shall be authorized to take or adopt any other means including the posting of any person for watch and ward purpose with a view to ensure the same against tampering or interfering in any manner that no person can enter into or open the premises or unauthorised construction without breaking or removing the seal affixed under Sub-rule (1).”

2. It has been found that fixing of wire rope / wire-mesh is a cumbersome process. The magnitude of the unauthorized construction in Delhi is huge due to existing distortion in the legal framework w.r.t. building activity in NCT of Delhi.

3. However, prevailing practice of sealing of properties for unauthorized constructions by sutli / threads / bandages is inadequate.

4. It has therefore been decided that sealing be carried out as follows:-



- a) Where a property / premises can be enclosed by doors, it shall be sealed by locking the doors and standardized seal be affixed on tape covering the lock. The standardized tape be applied to visual points.
- b) In cases, where the property does not have doors or is having opening at places other than doors, the nylon rope be used to tie around the access points and Standardized tape be also affixed / placed at crossing points of nylon rope at visible points.
- c) Standard barricade tape of 3"(inch) wide durable, tear proof, plastic material like, polyethylene, polypropylene or nylon shall have inscription "SEALED BY MCD / DON'T TAMPER", affixed on crossing points of nylon rope at visible points.
- d) Pursuant to sealing the premises, the MCD official shall inform in writing to the SHO of police station of the area in which unauthorized construction of the premises is situated, to keep strict watch & ward on the sealed premises so that the seals affixed by the MCD are not tampered with. Police authority shall be responsible for preventing tampering the seal as per Section 344 (2)(3)(4) r/w Section 475 of the DMC Act, 1957.
5. The cost incurred on sealing procedure shall be recovered from the owner/occupier of impugned property.
6. The sealing of property is only an interim arrangement to stop unauthorized construction till the unauthorized construction is demolished. The AE, alongwith JE of the area, shall be responsible for demolition of unauthorized construction as per SOP issued vide No.D/95/CE/Bldg.HQ/MCD/2024 dated 29.01.2024 and its corrigendum No.CE(B)HQ/2024/D-60 dated 30.8.2024, as early as possible.
7. The above is in suppression of earlier Office Order issued vide No.D/29/CE/Bldg.HQ/MCD/2024 dated 30.05.2024 and has been issued with the prior approval of the Competent Authority.

Chief Engineer (Bldg.) HQ

Office Order dated 15th May, 2024

**“विशेष कार्य बल
(सदस्य सचिव कार्यालय, विकास मीनार, नई दिल्ली)**

**Special Task Force
(Office of Member Secretary, STF, 6th Floor Vikas Minar, New Delhi)**

**E-File No. PLG/MP/0003/2020/F-15/-AD (PLG-MP AND DC)-1/D-44
Dated: 15.05.2024**

OFFICE ORDER

Sub: SOP for complaint redressal mechanism in STF

In compliance of the directions of Hon'ble Supreme Court of India vide order dated 24.04.2018 in the case of MC Mehta Vs Union of India & Ors., bearing number WP(C)4677/1985, a Special Task force (STF) was constituted vide OM No. O-33011/1/2006- DD.I dated 25.04.2018 by



MoHUA (**Annexure - 1**) to comprehensively address the issues related to unauthorised constructions and to oversee the enforcement of provisions of MPD- 2021 and the Unified Building Bye-laws for Delhi.

Subsequently, Special Task Force was thereafter notified under **Sub-Section (1) (aa) of Section 57 of Delhi Development Act, 1957**, with the previous approval of Central Government in the Gazette of India vide Extra Ordinary Notification No. **S.O.1243 (E) dated 08.03.2019 (Annexure-II)**.

Further, an Action Plan vide OM No. O-33011/1/2006/DD.I dt. 23.05.2018 was issued by MoHUA which defines the procedure for dealing with the complaint received in respect of illegal/unauthorized construction and punitive actions to be taken against the officers responsible for the same (**Annexure-III**).

Vide order dated 22.03.2024, in the matter of **Manav Samaj Sudhar Suraksha Sanstha NGO Vs Commissioner, MCD & Ors** bearing WP(C) 1425/2024, Hon'ble High Court directed the following:

"1. The Chairperson of STF is directed to convene a meeting of all the authorities and frame a standard operating procedure to deal with the issue of illegal and unauthorized construction. The standard operating procedure should specifically stipulate that even if there is a dispute with regard to the ownership of the land in question, all authorities will work jointly in ensuring that illegal and unauthorized construction is nipped in the bud and is not allowed to be carried out.

2. Standard operating procedure shall also stipulate that in the event STF

comes to a conclusion that illegal and unauthorized construction has been carried out in a particular area, it shall fix responsibility and take action against the delinquent officials."

In order to streamline the process of the Special Task Force, the following Standard Operating Procedure will be followed:

1. The complainant to make an application/complaint directly on STF's Web Portal or through Smart City 311 Mobile App or through STF's e-mail ID: stf.dda18@dda.org.in. Alternatively, complainant can also send a complaint in hard copy to Chairperson, STF, 1st Floor, B-Block, Vikas Sadan, INA, New Delhi-110023 or Member Secretary, STF, 6th Floor, Vikas Minar, I.P. Estate, New Delhi-110002. (Refer **Annexure-IV** for Details about Web Portal and Mobile Apps)

2. The complaint received in hard copy shall be uploaded after checking on the STF Web Portal which is an interactive Portal to interact with all ULBs. Soon after uploading the complaints, generation of an SNS (Samasya Nidan Seva) Number which is a Unique ID is done and serves as the future reference for complainant as well as STF and ULBs.



3. Registered complaints (having Unique SNS ID) assigned to Nodal officers of respective agencies/ULBs as the basis of territorial jurisdiction for further necessary action as well as redressal of grievance. Representatives in STF secretariat to identify the jurisdiction of complaint ab-initio. In cases where more than one organisation is involved, the complaint is sent to all concerned agencies for appropriate measures

4. Nodal Officer of the respective agency/ULB to check the complaint and forward it to the respective Grid Officer. The List of Nodal officers along with office address and their mobile number has been prepared on the basis of territorial jurisdiction of the local bodies/statutory authorities and is uploaded on the website of STF. In case of organization having multiple zones such as Revenue/Police etc., the officer of suitable rank and designation from the Headquarter unit shall attend the meetings of STF.

The grid officers are of the rank of Executive Engineer or of an equivalent rank. The Grid Officer shall be responsible to check all construction activities to determine whether it is unauthorized. All illegal or unauthorized construction activities shall be booked for taking action in accordance with the law. Any generic or non-specific and repetitive complaints may also be closed preferably within a fortnight's time. (**refer Annexure-V for details on Grid Officer**).

It shall be the responsibility of the concerned Local body/statutory authority that the information is updated from time to time and officer of suitable rank and designation is immediately nominated on transfer or change of the earlier officer.

5. Grid officer to initiate action on the complaint and thereafter upload the ATR/Status on STF Web Portal. After submission of ATR the complaint will be closed from the respective agency side. In case complainant is not satisfied with the ATR uploaded on the Portal, request can be made to the Nodal Officer to reopen the complaint to initiate further action by the Grid Officer. Complaint shall be permanently closed on the submission of final ATR.

6. The data of all the complaints received in STF can be retrieved/downloaded for action by the concerned statutory Authority/Local body depending upon their territorial jurisdiction and for bringing action taken report before the STF, for consideration in its fortnightly meetings. ATRs and Status of matters which require immediate action w.r.t Court cases/Monitoring Committee matters/Lokpal are discussed and explained in detail by the Nodal Officer of concerned local body.

7. Court cases/Monitoring Committee matters/Lokpal of India, where STF is either party/ Respondent such cases shall be placed before STF meeting



for the detailed discussion and directions issued to the concerned Departments to take action. Accordingly concerned Deptt. to initiate the action as per their law/regulations.

8. In case there is a dispute with regard to the ownership of the land in question, the demarcation of land shall be mandatorily carried out by the Revenue Department, GNCTD in presence of all the concerned agencies/departments. The Revenue Department, GNCTD shall carry out such demarcation in a time bound manner as the same are for safeguarding government land and ensuring that illegal and unauthorized construction is nipped in the bud. Thereafter, the concerned Land Owning Agency shall initiate the action against such encroachment/unauthorized construction as per law.

In case of dispute with regard to the ownership of the land in question and unauthorized encroachment/construction is going on all the concerned authorities as may be decided by the STF will work jointly in ensuring that illegal and unauthorized construction is nipped in the bud and is not allowed to be carried out.

9. However, for resolving the issue of overlapping of jurisdiction, action on unauthorized construction/encroachment would be taken by agencies as per jurisdiction listed below:

S.No.	Area	Activity	Jurisdiction /Responsibility
1.	Urbanised and Low Density Residential Area (LDRA)	Unauthorised Construction	MCD
		Encroachment	Land Owning Agency
2.	Notified Development/Planning Area	Unauthorised Construction	DDA
		Encroachment	Land Owning Agency
3.	Green Belt (As stipulated in clause 3.2.1 of MPD-2021, Annexure VI)	Unauthorised Construction	Revenue Department/ MCD
4.	Lal Dora and notified extended Lal Dora of all villages and all colonies listed in National Capital Territory of Delhi (Recognition of Property Rights of Residents in	Unauthorised Construction	MCD
		Encroachment	Land Owning Agency



	Unauthorized Colonies Regulations, 2019		
5.	Roads having ROW of 60 feet or above and which are being maintained by PWD, GNCTD.	Encroachment	PWD with assistance of MCD.

10. In cases where it is observed that the complaint is being shifted from one department to another owing to disagreement on the territorial jurisdiction, the matter will be discussed in the meeting of STF and decision of the Chairman, STF shall be final. The action taken report shall be accordingly submitted by the said agency formally before the STF in its next meeting. The passing of the responsibility from one department to another without regard to the directions of the chairman, STF shall have consequences and shall fix responsibility as per law.

11. Wherever unauthorized/illegal construction is detected by the Agencies/ULBs, they shall take action in accordance with law including booking, issuance of work stop notice (with information to police), sealing, demolition. Wherever demolition is required the agencies will go for complete demolition instead of cosmetic demolition. Agencies/ULBs shall ensure complete removal of debris from the site to prevent reconstruction. Simultaneously, the ULBs/Agencies shall inform Delhi Police and concerned Field Officers of their Deptt to keep strict vigil on the area cleared from the encroachment and ensure that the encroacher may not re-construct/reoccupy area cleared from the encroachment.

12. Once the property is booked for unauthorized/illegal construction or encroachment the Agencies/ULBs shall ensure that status quo shall be maintained and area in question is regularly monitored by the concerned Field Officer of their Deptt and the Delhi Police to check re-construction.

13. The Agencies/ULBs shall take all necessary efforts for prevention of creation of Third-Party Rights over illegally constructed / encroached land. The Agencies/ULBs upon booking of property as per law for unauthorized construction/encroachment shall intimate "Sub- Registrar, GNCTD", in writing with complete details of the property along with Key Plan and extent of unauthorized construction, with request not to register the said property under the Registration Act 1908 and place the copy of the intimation letter on their website for the information of general public. A copy of the same shall also be endorsed to STF for record. The Agencies/ULBs publish information on booked property in print media/social media and electronic media for wider publicity to create awareness in general public.

14. In case the information and details with regard to any unauthorized



construction or illegal encroachment comes to the notice of the field functionaries/Grid officers of any of the Land Owning agencies, the same shall be shared immediately through email with the designated nodal officer of the concerned Land Owning Agency. The same shall also be reported to STF either by email or Web-portal immediately. Actions by the concerned grid officer/nodal officer are to be taken up proactively as per law.

In case any illegal/unauthorized construction activity is detected by the STF during consideration of these reports (Status/ATR) or noticed during the site visits or the same is seen in perpetuation and wherein no appropriate action has been initiated timely by the officer responsible, the STF shall direct the concerned HoD to call for an explanation for dereliction of duty and direct the concerned authority to initiate disciplinary proceedings against the officer responsible.

15. All the concerned land owning agencies including Revenue department, GNCTD shall leverage new technologies like satellite images and digital maps as well as emerging technologies like drone survey to enable appropriate action for mapping of lands and buildings to detect encroachments and unauthorized/illegal constructions and Geo fencing of lands/premises for prompt monitoring and control. Drone survey of Delhi will be carried out by DDA, MCD and other Land owning agencies. The Aerial imagery output of the drone survey will also be used for change detection so as to map the incremental area under encroachment after every drone survey. All vectorized digital maps (Shape files) as available with all the land owning agencies, will be utilized for change detection so as to identify any incremental encroachment on their respective land parcels/ geographical area of jurisdiction.

16. The STF besides having its fortnightly meetings shall also have special meetings with its Members as per the OM/Gazette Notification and Co-opted members (L&DO, DUSIB, NHAI, ASI and Forest Deptt.) shall meet biannually to review the functioning of STF and to decide the way forward.

*Sd/-
(Member Secretary, STF)''*

(emphasis supplied)

14. On 18th May, 2024, notice was issued on an application moved on behalf of respondent no. 6/Mr. Babu Ali, seeking a direction to the CBI/Police to conduct an enquiry against the Petitioner-Society and its office bearers. Pursuant to the aforesaid, on 2nd July, 2024, the CBI shared



photocopies of the Status Report dated 1st July, 2024. At the request of the learned counsel for the CBI, it was given time to file a fresh Status Report in a sealed cover at least a week prior to the next date of hearing. Simultaneously, the respondent-DDA was also directed to file its Status Report along with a detailed affidavit of the Commissioner (LM).

15. In continuation of the previous orders as abridged and noted above, this Court is now examining the issue finally.

16. In compliance with the previous orders, a fresh Status Report has been filed by the CBI in a sealed cover. Even the DDA has handed over the affidavit of the Commissioner (LM) dated 11th November, 2024 alongwith relevant annexures. The Status Report of the CBI as well as the affidavit of the DDA has been carefully perused by this Court, apart from hearing the submissions of learned counsel appearing for the parties.

17. It is felt necessary to reproduce the relevant paragraphs of the Status Report of the CBI keeping in view the seriousness of the issues involved and its nature. The relevant extracts of the same are reproduced hereunder:-

“ xxx xxx xxx
63. Investigation has revealed that both the agency DDA & MCD are playing ball game by saying that the land owning agency is responsible for the action in case of receiving report of unauthorized construction in the area. It is pertinent to mention here that MCD has taken numbers of action against the unauthorized construction in the area as such they cannot run away by saying this the action to be taken by the land owning agency only.

xxx xxx xxx
178. Investigation has revealed that the property was wrongly declared as waqf, especially, the historical records or documentation is unclear or erroneous on this aspect. The original owner did not create a valid waqf under Islamic law. The Waqf Board's administrative control over the land has resulted in misuse, mismanagement, or diversion of funds not in line with the endowment's purpose. The property has been wrongfully included in the Waqf Gazette without sufficient proof of endowment. There are errors in the survey or listing process that led to the wrongful notification of the property as waqf. The claim made by DDA is more authentic rather claim made by Waqf. The DDA has claimed the land with the support of historical land records, title documents and other legal documents which shows that the land in question is not waqf property.



xxx xxx xxx

204. During investigation records/character/antecedents of Md. Tufail Khan, General Secretary of Zamia Arabia Nizamia Welfare Education Society and R/O- H-1, K-484, Madina Masjid Mathura Road, Hazrat Nizamuddin, New Delhi were sought from PS Hazrat Nizamuddin alongwith cases registered against him, the reply is as under:-

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xxx xxx xxx

ix. It is pertinent to mention here that he is a **Bad Character BC Bundle- "A"** of this police station and presently residing at the above said address.

xxx xxx xxx

228. During investigation, local resident were also examined and all were on the same page about Md. Tufail Khan, that he is extortionist. It is also revealed that during investigation that Md. Tufail Khan filed complaints against those who did not pay bribe/ extortion to him in this matter."

18. Learned counsel for the CBI states that it is a herculean task for the organization to fix the criminal liability of the persons involved in offences which may have occurred many decades ago and possibly on account of lack of evidence too. This Court agrees with the said contention to the extent of fixing criminal liability, regard being had to the fact that the core issues and transaction appear to have stemmed on and from the year 1970 onwards.

19. Learned counsel for the CBI, on instructions of the Investigating Officer who is present in person, states that the CBI would register/file a FIR/Chargesheet within four (4) weeks from today positively. Binding the CBI to the statement of learned counsel appearing on its behalf, this Court directs that the same be done within the time prescribed.

20. In reference to the statement of the CBI in its Status Report regarding registration of many criminal cases against the petitioner as also of him being declared a Bad Character (BC) by P.S. Hazrat Nizamuddin is concerned, learned counsel for the petitioner states that he has preferred an appropriate proceeding seeking quashing of the declaration as Bad Character which is pending adjudication. To that extent, this Court is not recording any observation.



21. It is also significant to reproduce hereunder the relevant paragraphs of the affidavit dated 11th November 2024 of the Commissioner (LM), DDA:-

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4. *That in compliance thereof, the Answering Respondent herein filed a Status Report dated 01.07.2024 wherein it was mentioned that it was decided that a drone survey of Delhi would be conducted through Survey of India (hereinafter referred to as “SoI”), since as per National Geo spatial Policy 2022, the responsibility of fundamental Geo spatial Data theme Ortho-imagery has been entrusted to Sol. In the converging context of aerial/drone survey of Delhi, in terms of the directions of this Hon’ble Court in the present matter and aerial/drone survey of O Zone (comprising about 97 sq kms) in compliance with this Hon’ble Court’s directions passed in W.P.(C) 5751/2014 vide Order dated 27.03.2024, and at the behest of this Respondent herein, SoI commenced the drone survey on 13.06.2024 in O-Zone of Delhi. A copy of this Hon’ble Court’s Order dated 27.03.2024 in W.P.(C) 5751/2014 is annexed herewith as Annexure R-1.*

5. *That it is stated that SoI has completed the drone survey of O-Zone (about 97 sq. kms), and due to the drone’s geometrically symmetric flight path, an area of about 160 sq. km of ‘O’ Zone (including 97 sq. km) has also been surveyed. Further, DDA has obtained the ortho-rectified aerial image of an area of about 101 sq km out of the total 160 sq. km in the ‘O’ Zone (97 sq km) from SoI till 21.10.2024.*

6. *That furthermore, with the objective of putting in place an institutionalised long-term mechanism in this regard, a Tripartite Memorandum of Understanding (hereinafter referred to as “MOU” has been executed between the Sol, DDA and MCD on 29.08.2024 in this regard. The relevant extracts of the scope of work under the MOU have been extracted hereinbelow:*

4.2 The MOU is valid for a duration of 5 (five) years from the date of commencement, and any extension beyond this period shall require the mutual consent of the parties in writing...

5. SCOPE OF THE WORK:

5.1. Data Acquisition: Suitable sensors and platform shall be used for high resolution DEM and ORI Generation for entire NCT of Delhi twice a year for five years. CORS Network and GPs/Benchmark Library of SOI will be used to seamlessly integrate the surveys with National Geodetic Reference Frame (NGRF). Further densification of CORS in NCT Delhi as per the requirement will be taken up during the period of MoU.

5.2 Geo-referencing of existing Cadastral Maps with ORI and Vectorisation: The existing cadastral maps will be geo-referenced with the help of digital framework provided by ORI and post pointed GCPs



as necessary. The details of the existing maps shall be vectorised thereafter. Alternatively, if the vector data of cadastral maps are already available, the same shall be georeferenced.

5.3 Vectorisation and Linking of Layout Plan (LoP) with geo-referenced vector data of existing cadastral maps: *The LoPs and the existing data of the properties in the LoP will be geo-referenced with the help of digital framework provided by ORI and post pointed GPs as necessary as well as with geo-referenced vector data of existing cadastral maps.*

5.4 Creation of Topographic Template: *2D/3D topographical Feature extraction shall be carried out for Rural/Urban areas as per the Standard Spatial Data Model Structure (SDMS) for National Fundamental Geospatial data themes.*

5.5 Resurvey for Plot Boundary/Property for updation and collection of ownership data.

5.6 Digitalisation of data/records of various departments for integration with administrative boundary/topographical feature: *The digitalised data/records of DDA and MCD may subsequently be integrated into a GIS, depending upon such requirement, with other departments of NCT of Delhi including: Revenue Department, Housing Department, Urban Development, PWD Department, Irrigation, Agriculture Department, Forest Department, Disaster Management, etc.*

5.7 Storage and management of data acquired generated: *Several petabytes of data in form of DEM, ORI, etc., will be generated during the course of work which will require highly skilled expertise in the domain of ICT for proper storage, management and maintenance of digital data.*

5.8 Creation of LIS/GIS ready data: *The vector data generated from ORI and field surveys shall be linked with updated ownership data collected from field and legacy digitalised and geo-coded data of various departments to create skeletal GIS ready data for supporting various applications as per the requirements of DDA & MCD.*

5.9 Development of Geo-Portal: *A Geo-Portal to meet specific and generic requirements of DDA and MCD will be developed for sharing of data and services within the Govt. department and to public. The Geo-portal can also be made use for implementation of workflows during development of GIS.*

5.10 Training: *Regular Training and Refresher Courses of DDA & MCD Officials as per the requirements.*

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xxx”

(emphasis supplied)



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22. In view of the Standard Operating Procedure adopted under the Memorandum of Understanding executed between the SoI, DDA and MCD on 29th August, 2024 referred to above, no further orders are called for in that regard. The parties to the said MoU would be under an obligation to implement the said institutionalized long term mechanism. Further, both DDA and MCD are directed to demarcate their boundaries and jurisdictions with precision (longitude and latitude) as far as possible. The Hon'ble Lieutenant Governor is directed to consider extending the survey to the whole of Delhi so that the jurisdiction of all statutory authorities is clearly demarcated and the ground level reality is not a mystery and is known to all.

23. Insofar as the administrative lapses on the part of the MCD officials is concerned, keeping in view the Status Report of the CBI, this Court deems it fit to direct the Commissioner, MCD to fix the administrative liabilities of all the officials involved and take strict action in accordance with law as expeditiously as possible. However, the said exercise be completed within twelve weeks.

24. In view of the fact that the Ziyarat Guest House has already been demolished, nothing further survives for adjudication and the present PIL is closed. Pending applications also stand disposed of.

25. The Status Report of the CBI be re-sealed and kept in the safe custody of the Deputy Registrar (Appellate).

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 13, 2024/*rl*