

(2009) 05 DEL CK 0187

In the Delhi High Court

Case No : Writ Petition (C) 711 of 2009 and CM No's. 5907-09 of 2009

Kailash Sharma

APPELLANT

Vs

NCT of Delhi

RESPONDENT

Date of Decision : 06-05-2009

Acts Referred:

Citation : (2010) 7 RCR(Civil) 511

Hon'ble Judges : A.P. Shah, C.J; Neeraj Kishan Kaul, J

Bench : Division Bench

Advocate : Sunil K. Mittal, Gaurav Duggal, Harsh Khanna and Kshitij Mittal and Ashok Bhasin, Shantanu Rastogi and A.K. Sham, in C.M. Nos. 5907-09 and 6077-80 of 200, for the Appellant; Deepa Tiwari and Sujata Kashyap for Respondent Nos. 1 to 3, Ajay Verma, for DDA and Anurag Mangla and Nitika Mangla for Ambience Garden, for the Respondent

Judgement

1. A resident of Rajpur Khurd Extension, New Delhi has filed this petition in public interest for issuing directions to the respondents to implement the policy guidelines of the Government of National Capital Territory of Delhi (in short "GNCTD") approved by this Court in W.P.(C) No. 14261/2004 in the matter of Bharushtrachar Virodhi Sangathan (Regd.) Delhi v. Lt. Governor and Ors., and to take effective steps to see that the smooth flow of traffic is maintained and there is no congestion on the Chhattarpur Bhatti Mines Road. Further the petitioner has sought direction to suspend and cancel licensees of such marriage venues/farmhouses which are carrying on activities in contradiction and violation of the Provisions of the Delhi Municipal Corporation Act, 1957 and the guidelines issued in W.P.(C) No. 14261/2004.

2. Chhattarpur Bhatti Mines Road is the main arterial road for ingress and egress for several villages including Chhattapur Enclave and Hargovind Enclave. The population of this area is more than 10 lakhs and this road stretches into approximately 6 kms. and caters to the daily needs of transportation of the residents of the villages. It appears that in and around 1990, because of the

paucity of space, certain plots were converted into farmhouses and thereafter, were utilized for the purpose of holding social functions such as marriages etc. This Court noticing the fact that the farmhouses were being used indiscriminately and commercially for marriages and other social functions in gross violation of the norms, rules and regulations of the Municipal Corporation of Delhi (in short "MCD") asked GNCTD to frame a policy regarding the manner and mode of use of farmhouses for organizing social functions. The guidelines framed by GNCTD which were approved by this Court vide its order dated 10th October, 2007, reads as follows:

1. Farm houses constructed as per sanctioned building plan and having sufficient parking space (minimum 1 acre for each 2.5 acre farm area) inside their boundary wall may apply to the Office of the Zonal Dy. Commissioner, MCD for holding social functions on their premises. The parking area within the farm houses should be properly demarcated with separate Entry and Exit gates. Farm houses owners shall reply their own security guards to manage the parking within the premises.
2. No parking shall be permitted outside the farm houses on the roadside and in the event of violations, the violators will be prosecuted in accordance with the law.
3. Only such farm houses should be selected which have proper access road from main road to the farm house. The minimum width of the access road to such farm house from the main road should be 60 feet. Farm houses should not be located at a road which ends in a dead end.
4. For each social function, an amount of Rs. 20,000/- per event for farm house of 05 acres and above, and Rs. 10,000/- per event for farm house below 05 acres but not less than 2.05 would be levied by the DDA or the MCD as the case may be. Booking of farm house (s) by MCD may be done through Citizen Services Bureau (CSB)/Internet.
5. A committee under the Chairmanship of the Zonal Dy. Commissioner, with the Asstt. Commissioner of Traffic Police, ACP (SubDivision), Divisional Fire Officer, the Sub-Divisional Magistrate and a representative of DDA in case of DDA area land, would scrutinize such applications.
6. Permission should be given on rotational basis within the municipal zone so that each farm house is not used for more than 120 days in a year. Permission should be based on factors such as number of guests, approximate number of vehicles, nature of function etc.
7. Farm houses shall take special precautions regarding use of noiseless generators, use of loudspeakers, musical instruments etc., so that noise pollution level remains within the permissible limit in conformity with the guidelines/norms issued by CPCB/DPCC. Similarly, use of fire-crackers within and outside the farm houses should be within the permissible limit and the air pollution level should

not exceed the prescribed limits stipulated by the CPCB/DPCC.

8. No loudspeakers and bands should be permitted beyond 10.00 P.M.

9. Processions and horse-drawn carriage should not be permitted on the roads outside the farm houses.

10. Strict enforcement action should be taken by the concerned authorities against those farm houses that use their premises for commercial purposes without the permission of the DMC Committee.

11. Sanitary conditions should be maintained in and around Farm House during and after the functions and in the event of violation, the violators will be prosecuted in accordance with the law.

12. These instructions/guidelines shall remain in force till further orders and can be reviewed by the Government.

3. The Court further directed that the aforesaid guidelines shall be implemented and enforced strictly and anybody found violating the same should be proceeded with in accordance with law. It was directed that in case there is any violation, the owner of the farmhouse shall be held responsible and proceedings shall be initiated against him by the competent authority and his permission to use the farm house for social functions shall be withdrawn. It was further directed that DDA, MCD, NDMC, Delhi Police and GNCTD shall be responsible for proper implementation of the said guidelines.

4. The grievance of the petitioner is that social functions are being held in all these farmhouses on a daily basis without adhering to the guidelines which have been approved by this Court in W.P.(C) No. 14261/2004. According to the petitioner, this is causing traffic jams throughout on the Chhattarpur Bhatti Mines Road resulting in serious hardship of the residents of the area. Further, according to him, after such marriages or other functions are over, huge piles of rubbish, garbage etc. are left on the road by the venue owners which has become an environmental hazard. The petitioner is, therefore, seeking strict implementation of the guidelines.

5. On behalf of the GNCTD, a counter-affidavit has been filed stating that steps have been taken to comply with the approved guidelines in accordance with the order dated 10th October, 2007 passed by this Court. It is stated that survey of each farmhouse in Chhattapur area has been conducted and it has been revealed that out of 32 farmhouses, 16 are not complying with the guidelines framed by the GNCTD and accordingly, these farmhouses are not permitted to conduct any social function as they are not having adequate parking space, space for entry/exit of the vehicles inside the farmhouses and this is resulting in very heavy traffic congestion particularly during the marriage season. It has been stated that major traffic points have been located and it is further stated that one Hydraulic Crane and two small Cranes will be at the disposal of TI Mehrauli to remove the vehicles obstructing smooth flow of traffic. It is also stated that additional staff

will be posted at Chhattarpur Bhatti Mines road to ensure strict compliance of the guidelines and that DCP South District has been requested to provide adequate force to assist the traffic police for the smooth flow of traffic during the wedding season.

6. Learned Counsel appearing for the MCD submitted that the MCD has carried out inspection in respect of 29 farmhouses mentioned in the petition and out of 29 only 6 have sanctioned plans. He submitted that 23 farmhouses which were carrying on activities contrary to the guidelines have been sealed by the MCD. He submitted that as far as agricultural lands are concerned, there is a complete prohibition against any non-agricultural activity under the MPD 2021 and as far as the farmhouses which are not having sanctioned plans, no functions can be held unless they comply with the rules and obtained the sanctioned plans from the municipal authorities. As far as sanctioned farmhouses are concerned, he submitted that permission will be granted subject to compliance with the guidelines. The learned Counsel also submitted that the hotels/motels, which are also conducting the social functions in violation of the rules and norms of the MCD as well as the policy guidelines of GNCTD, will be proceeded against and appropriate action will be taken against them including action of sealing the premises. He submitted that some of the farmhouse owners have filed undertakings before the MCD stating that they will not conduct any social function in their farmlands and have prayed for de-sealing of their premises. He submitted that the MCD will consider the prayer for de-sealing and pass appropriate orders in accordance with law.

7. The MCD and GNCTD as well as the Police Department are directed to take all necessary steps to ensure the full compliance with the guidelines laid down by this Court vide its order dated 10th October, 2007.

8. The Registrar General of this Court is directed to nominate two officers of this Court as Court Commissioners, who shall conduct surprise inspections and file periodical reports in this Court with regard to the agricultural lands, farmhouses and hotels/motels on Chhattarpur Bhatti Mines Road and in case, any such breach is brought to the notice of the MCD/Police Department, appropriate action shall be taken against the concerned parties.

9. Let the Police Department and the MCD file further action taken report before this Court on or before 26th May, 2009, and the matter be listed on 27th May, 2009.

10. A copy of this order be given dasti to learned Counsel for the parties.