

(2021) 05 DEL CK 0205

In the Delhi High Court

Case No : Civil Writ Petition No. 4852 Of 2021

Sandeep Bhardwaj

APPELLANT

Vs

Ministry Of Housing And Urban Development & Ors.

RESPONDENT

Date of Decision : 18-05-2021

Acts Referred:

Citation : (2021) 05 DEL CK 0205

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Jyoti Singh, J

Bench : Division Bench

Advocate : Gagan Gandhi, Mohit Kaushik, Monika Arora, Abhishek Khanna, Shriram Tiwary, Prabhsahay Kaur, Mini Pushkarna, Khushboo Nahar, Latika Malhotra

Final Decision : Dismissed

Judgement

D.N. Patel, CJ

Proceedings have been conducted through video conferencing.

C.M.No. 14955/2021(exemption)

Allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) No.4852/2021 and CM No.14954/2021 (stay)

1. The present petition in the nature of Public Interest Litigation has been preferred with the following prayers :

â??a) Hold the Notification vide S.O. 3173(E) dated 29.06.2018 as ultra-vires;

b). Issue a writ of mandamus and direct the Respondent No.1 and Respondent No.2 to allow the users of property to make payment for the

conversion and parking charges in both lumpsum and annual payment mode;

c). Direct the Respondent No.1 and Respondent No.2 to withdraw the modified Notification S.O. 3173(E) dated 29.06.2018;

d). Direct the Respondent No.3, Respondent No.4 and Respondent No.5 respectively to refund the money collected as conversion and

parking charges with interest calculated @ 18% per annum from the date of levy till the actual payment;

e). Direct the Respondent No.3, Respondent No.4 and Respondent No.5 respectively to constitute a separate account for the parking and

conversion charges respectively and maintain the expenditure and income statement of the same to be published quarterly at their websites

respectively;

f). Direct enquiry against the Respondent No.3, Respondent No.4 and Respondent No.5 respectively for misusing and diverting the public

money;

g). Pass any other order(s) and or direction (s) which this Honâ??ble Court deems fit and proper, in favor of the Petitioner or pass such

other order or orders and / or direction and / or directions, as this Honâ??ble Court would deem fit and proper.â??

2. We have heard learned counsel for the Petitioner. Petitioner challenges the Notification dated 29.06.2018 (Annexure-2) issued by Respondent

No.2/DDA, which mandates the owners / allottees / users / residents of the premises under mixed used to pay one-time conversion charges on mixed

use / commercial streets instead of annual mixed use charges. The contention of the Petitioner is that the Notification imposes an additional burden on

the upcoming businesses by directing one-time lump sum conversion charges and causes a grave hardship.

3. The scope of Public Interest Litigation has been delineated by the Supreme Court time and again. It has been held that Public Interest Litigation is a

device for making basic human rights meaningful to the deprived and vulnerable sections of the Society so as to ensure social, economic and political

justice. In Gyani Devender Singh Sant Sepoy Sikh vs. Union of India, (1995) 1 SCC 391, the Supreme Court held that the High Court while

entertaining a PIL must indicate how the public interest was involved in the matter. It has been held in Ashok Kumar Pandey vs. State of West

Bengal, (2004) 3 SCC 349 that the Courts must be careful to see that a body of

persons or member of public who approaches the Court is not acting for personal gain or private motive.

4. While dealing with the present petition, we must keep in mind the dictum of the Supreme Court that Public Interest Litigation is a weapon which must be used with great care and circumspection and that the petition should not be merely a cloak for attaining private ends. Tested on this angle, we find that the present petition has been filed by the Petitioner who is a businessman and seeks to enforce a right which is purely for private gains and there is no element of public interest.

5. Looking to the facts and circumstances of the case, we see no reason to entertain this Public Interest Litigation filed on behalf of a businessman for personal gain in his business.

6. With these observations, the writ petition and the accompanying application are dismissed. Liberty is, however, granted to the Petitioner to espouse his individual grievance, in an appropriate Forum, in accordance with law.