



2024:DHC:10082



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 23.12.2024

+ **W.P.(C) 7633/2014, CM APPL. 17978/2014**

DELHI GYMKHANA CLUB LTD.

.....Petitioner

Through: Ms. Ruchir Gupta and Mr. Abhishek
Verma, Advocates

versus

DELHI POLLUTION CONTROL COMMITTEE & ORS.

.....Respondents

Through: Mr. Nalin Hingorani, Advocate for R-
1/DPCC

Mr. Tushar Sannu, ASC, NDMC with
Mr. Hardik Saxena, Advocate for R-2
and Mr. C.L Meena, Executive
Engineer

Mr. Tushar Sannu, Mr Shivraj Singh
Tomar and Mr. Hardik Saxena,
Advocates for R-3/GNCTD with Mr.
Anil Kumar, Tehsildar, Chanakyapuri

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. With the consent of the learned Counsel appearing on behalf of the parties, the matter is taken up for hearing and final disposal today.

2. The grievance of the Petitioner as articulated in the present Petition is set out in its prayer, which reads as follows:

"i. Issue appropriate writ or order setting aside Impugned Order dated 01.11.2014 passed by SDM (Chanakya Puri) at the behest of Respondent No.1 and 2;

ii. Direct the Respondents to process the Application of the Petitioner dated



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25.08.2014 in accordance with law and regularize the bore-wells of the Petitioner club;”

3. Learned Counsel appearing on behalf of the Petitioner submits that the grievance of the Petitioner stems from the fact that four out of five bore-wells which were being used by the Petitioner for meeting its requirement for water since the year 1970 were directed to be sealed by the Sub-Divisional Magistrate.

3.1 Learned Counsel appearing on behalf of the Petitioner further submits that principal ground on which the borewells were sealed is that the borewells were placed at a distance of less than 150 meters between them.

3.2 Learned Counsel appearing on behalf of the Petitioner also referred to the map of the area to show that while three bore-wells [borewell no. 1, 4 and 5] are in one cluster, the remaining two bore-wells [borewell no. 2 and 3] are in another cluster which is at a distance of over 200 meters from the first cluster.

4. A Coordinate Bench of this Court, after examining these contentions, by its Order dated 05.11.2014 had directed that the Petitioner be permitted to operate one borewell in each cluster keeping the aforesaid criteria in mind and borewell no. 2 was directed to be de-sealed, as borewell no.1 was already in use.

5. This ad interim order passed by the Coordinate Bench of this Court has continued for the last 10 years.

6. On 23.10.2024, learned Counsel for the Petitioner submitted that this



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interim protection can be continued till the Application dated 25.08.2014 seeking regularization of the borewells is decided by the appropriate authority. Subsequently, the Respondent No.2/NDMC filed a status report dated 20.12.2024. The gist of the status report is that the Application has already been decided by the Impugned Order.

7. Learned Counsel for the Petitioner, on instructions, submits that the deciding authority was to be NDMC and not the advisory authority. However, without prejudice to the rights of the Petitioner, learned Counsel submits that a fresh Application by way of a representation shall be made by the Petitioner for a decision thereon. The Application shall be filed along with all appropriate documents before the concerned official.

8. Accordingly, the following directions are passed:

(i) The fresh Application as filed by the Petitioner, shall be examined by the Respondent No. 2 and Respondent No. 3 and be decided by a Speaking Order.

(ii) The Application shall be filed with the Respondent No.2/NDMC addressed to the office of Mr. C.L Meena, Executive Engineer, Water Supply within four weeks from today.

(iii) The Petitioner and/or his authorized representative shall be given an opportunity of being heard and is permitted to produce any additional facts or documents in support of their contentions, at the time of the hearing before the concerned Authority.



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(iv) In the event, if it is deemed necessary, that there is a need for more than one hearing(s), the Petitioner and Respondent/Authority may mutually schedule such additional hearings amongst themselves as well.

(v) The Respondent/Authority shall pass a speaking order within Twelve weeks of conclusion of the hearing(s).

(vi) The speaking order shall be communicated within a week to the Petitioner under acknowledged postal service and e-mail.

9. The interim protection granted to the Petitioner by this Court on 05.11.2014 shall continue for a period of four weeks after the speaking order has been communicated to the Petitioner.

10. It is clarified that this Court has not examined the matter on merits. All rights and contentions of both parties have been left open in this regard.

11. Needless to add that, if the Petitioner is aggrieved by the Order passed, the Petitioner shall be at liberty to file appropriate proceedings in accordance with the law.

12. The Petition is disposed of in the foregoing terms. All pending Applications stand closed.

13. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

DECEMBER 23, 2024

g.joshi

Click here to check corrigendum, if any