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

Date of decision: 17th January, 2020

+ W.P.(C) 645/2020 and CM No.1828/2020

SD WINDLESH Petitioner

Through: Petitioner in person

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Jawahar Raja, Addl.Standing
Counsel (Civil)-GNCTD with Mr. Anchit
Krishnan, Adv.

Mr. Ajjay Aroraa and Mr. Rajat Rajoria Singh,
Advs. for R-East Delhi Municipal Corporation

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **17.01.2020**

D.N. PATEL, CHIEF JUSTICE (ORAL)

W.P.(C) 645/2020

1. This so called Public Interest Litigation has been preferred with the following prayers :

“A. Issue writ/ order/ direction in the nature of a Writ of Mandamus or of any other writ thereby directing the respondents not to encroach upon the open green land reserved by DDA as parks at the time of construction of

Yamuna Vihar Residential Colony in 1974 which had been serving as a lung space for breathing fresh air by the residents of the colony which has been converted into heavily polluted concrete jungle;

B. Issue writ/ order/ direction in the nature of a Writ of Mandamus or of any other writ thereby directing the respondents to provide a list of all parks and green land earmarked by DDA at the time of allotment of plots in Ghonda Residential Scheme presently known as Yamuna Colony;

C. Issue writ/order/direction in the nature of a Writ of Mandamus or of any other writ thereby directing the respondents to provide a list of all the unauthorized constructions in the parks earmarked for the public by DDA at the time of planning of Ghonda Residential Colony presently known as Yamuna Vihar Residential Colony and to remove all these unauthorized constructions of various schools, religious places, dharamshalas and banquet halls made from the parks in Yamuna Vihar

D. Issue writ/order/direction in the nature of a Writ of Mandamus or of any other writ thereby directing the respondents not to raise the height of boundary walls of the parks in Yamuna Vihar Colony as the same has obstructed free flow of air,

B. Issue writ/order/direction in the nature of a Writ of Mandamus of any other writ thereby directing the respondents to stop the encroachment of green space of parks in Yamuna

Vihar Colony by constructing zims or any other structures inside the parks.

F. Issue writ/order/direction in the nature of a Writ of Mandamus or of any other writ thereby directing the respondents to provide toilet in each park for the convenience of the public coming to the park early in the morning for morning walk,

G. Issue writ/order/direction in the nature of a Writ of Mandamus or of any other writ thereby directing the respondents to ensure the availability of chowkidar and one responsible person in the parks especially during morning and evening hours when public comes there for morning and evening walks, strolling and relaxing, and

H. Issue writ/order/direction in the nature of a Writ of Mandamus or of any other writ thereby directing the Respondents to provide the list of the plantation made in parks of Yamuna Vihar by PWD at the instance of Delhi High Courtensure that existing greenery and recent plantation made at the direction of Hon'ble Delhi High Court and also the list of plantations existing as on date;

I. Issue writ/order/direction in the nature of a Writ of Mandamus or of any other writ thereby directing the Respondents to ensure that these green spaces/parks are not converted by illegal entrants into play grounds;

J. Issue writ/ order/ direction in the nature of a Writ of Mandamus or of any other writ thereby directing the Respondents to provide the list of plantation existing in each park as on date and to ensure that none of these plants/trees are felled by unauthorized encroachers in these parks.

K. Issue writ/ order/ direction in the nature of a Writ of Mandamus or of any other writ thereby directing the Respondents to provide the list of the green belts which have been encroached upon by the people on the lane in front of bigger residential houses on the north side of the colony and to take back the possession of such green spaces.”

2. It is submitted by learned counsel for the respondent nos. 2 and 3 that the allegations leveled in this writ petition are baseless as no data or specific information supporting allegations mentioned in the writ petition. It is further submitted by the learned counsel for the respondent nos. 2 and 3 that as per Table 9.4 of the Master Plan for Delhi-2021, the permissible construction is being carried out in the area in question by the respondent nos. 2 and 3, which are Government authorities.

3. Table 9.4 of the Master Plan for Delhi 2021 reads as follows :

Table 9.4: Permission of Use Premises in Sub Use Zones

S.No.	Use Zone	Activities Permitted
1.	Green Belt	Forest, Agriculture use, Vegetation belt, Dairy Farms, Piggery, Poultry farms, 1 [Low Density Residential Plots], Wild life sanctuary, Bird sanctuary, Biodiversity Park, Veterinary Centre, Police Post, Fire

		Post, Smriti Van, Plant Nursery, Orchard, Area for water-harvesting, Floriculture farm, Open Playground, Agro forestry, Amenity structures (List given in note). Existing village Abadis, already Regularised Unauthorised colonies and already approved Motels may continue 2 [subject to development control conditions mentioned in Table 5.4 and Clause in Chapter 17.0].
2.	Regional Park	Ridge, Residential Flat (For watch & ward), Picnic Hut, Park, Shooting Range, 3 [Bio-diversity Park], Zoological Garden, Bird Sanctuary, Botanical Garden, Local Government Office (Maintenance), Open Air Theatre, Police Post, Fire Post, Orchard, Plant Nursery and Forest. Approved Farm Houses sanctioned prior to 01.08.90 4 [or subsequently if approved by 5 [concerned municipal body], as per the policy applicable for regularization of the existing farm houses subject to necessary clearances from the Central Empowered Committee of Supreme Court and the Ridge Management Board of GNCTD are allowed.]
3.	City Park	Aqua park/water sports park, Arboretum, 6 [Bio-diversity Park], Botanical Garden, National Memorial (approved by Cabinet/ Govt. of India), Amphitheatre, Open Playground, Aquarium, Other activities same as permitted in District Park. 30% of the area shall be developed with plantation of native species
4.	District Park	District Park, Theme park, 7 [Bio-diversity Park], Recreational Club, National Memorial , Open-air food court, Children Park, Orchard, Plant Nursery, Area for water harvesting, Archaeological Park, Specialized Park, Amusement Park, Children Traffic Park, Sports activity, Playground, Amenity structures. Restaurant in a District Park having an area above 25 Ha. subject to following: a. Area of the restaurant plot shall not be more than 0.8 Ha or 1% of the District Park, whichever is less. b. Restaurant plot shall have no physical segregation from the rest of the District Park area. c. The building shall be a single storey structure with max. FAR of 5 and height not more than 4m. without any residential facility and to harmonize with the surroundings.

		<p>d. In case there is no parking lot in the vicinity, parking should be provided at a reasonable distance from the restaurants. Parking area should not form part of the restaurant complex / greens.</p> <p>e. 30% of the area shall be developed as dense plantation.</p>
5.	Community Park	Park, Children Park, Open-air food court, Playground etc
6.	Multipurpose Ground	Public meeting ground, Public address podium, Social functions, Soft drink and snack stalls etc.

4. Having heard the petitioner in person and learned counsel for the respondents, it appears that this is not a public interest litigation at all. It is alleged by the petitioner that respondent nos. 2 and 3 are encroaching upon the government plots at the instance of respondent nos. 1 and 4, which are all government authorities. The concerned respondent authorities are bound to keep in mind the Master Plan for Delhi-2021 for the land use and construction is required to be carried out within permissible limit at the permissible places. If there is any specific violation by any specific respondent, the same shall be pointed out in an individual writ petition.

5. In this public interest litigation, we see no reason to issue any direction, much less any writ upon respondents Government authorities that they will not do any encroachment. The allegations levelled in the instant writ petition against the respondent nos. 2 and 3 are baseless and are not substantiated by any relevant data and proper research, therefore, tantamount to total misuse of Public Interest Litigation system.

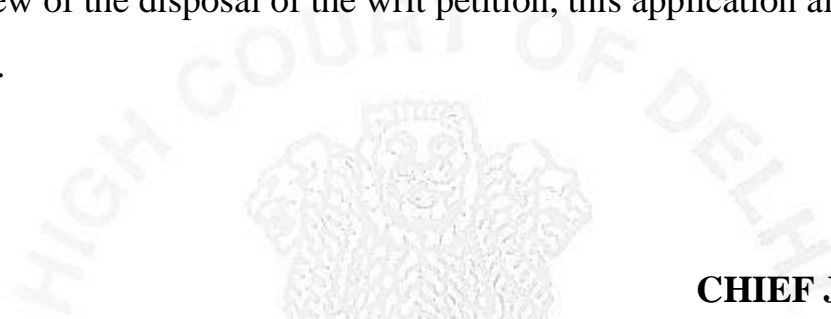
6. With these observations, this writ petition is hereby dismissed with costs of ₹10,000/- (Rupees ten thousand only). This amount shall be

deposited with the Delhi State Legal Services Authority within a period of six weeks from today.

7. A copy of this order will be sent to the Member Secretary, Delhi State Legal Services Authority, Central Office, Patiala House Courts Complex, New Delhi-110001.

CM No.1828/2020 (interim stay)

1. In view of the disposal of the writ petition, this application also stands disposed of.



CHIEF JUSTICE

C.HARI SHANKAR, J.

JANUARY 17, 2020/kr

भारतमेव जयते