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

+ **W.P.(C) 1005/2025**

SH. SUBHASH CHAUDHARYPetitioner

Through: **Mr. Gaurav Manuja, Advocate.**

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: **Mr. Rakesh Malhotra, Advocate.**

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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27.01.2025

CM APPL. 4990/2025

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 1005/2025 and CM APPL. 4991/2025

3. This writ petition is preferred on behalf of the Petitioner under Article 226 of the Constitution of India laying a challenge to show cause notice dated 11.12.2024 issued by MCD under Sections 344 (1) and/or 343 of the Delhi Municipal Corporation Act, 1957 (DMC Act).

4. The principal grievance ventilated in the writ petition and as articulated by learned counsel for Petitioner is that Petitioner is completely unaware of the details of the alleged deviations as the impugned show-cause notice is completely silent on this aspect. The argument is that in the absence of any details no steps can be taken by the Petitioner to rectify the deviations, assuming there are any. It is also argued that no opportunity was



granted to the Petitioner to show that the construction in question was compliant with the sanction plan and/or compoundable.

5. Issue notice.

6. Learned counsel appearing on behalf of MCD, on advance copy of the writ petition, accepts notice and submits that this writ petition is not maintainable as Petitioner has an alternate statutory remedy to approach Appellate Tribunal, MCD under Section 347 B of the Delhi Municipal Corporation Act, 1957.

7. Without prejudice to the aforesaid contention, it is submitted that Petitioner has not approached this Court with clean hands. It is averred in the petition that Petitioner is unaware of the deviations as also that no opportunity was given to him to show that the construction was compliant with the sanction plan or at the highest compoundable. However, these averments are contrary to the factual position. It is submitted that after the show-cause notice was given to the Petitioner, he filed a reply dated 13.12.2024 and was thereafter called for personal hearing on 03.01.2025. On 03.01.2025, Petitioner attended the personal hearing and handed over written submissions wherein he stated that 20 days' time was required for rectification of unauthorized construction in the shape of deviation/excess coverage against the Standard Building Plan at second floor. Considering his request, next date for personal hearing was fixed for 22.01.2025.

8. It is further submitted that on 22.01.2025, Petitioner again appeared for personal hearing and handed over written submissions. He categorically stated that due to enforcement of GRAP-3 and 4, complete rectification work of unauthorized construction could not be completed and sought further time of 10 days to carry out the remaining work of rectification. On



the request of the Petitioner, personal hearing has been now fixed for 29.01.2025 and in this light, it is hardly open to the Petitioner to contend that he is unaware of the deviations in the property or that no personal hearing has been granted to him.

9. I have heard the counsels for the parties and perused the order sheets pertaining to personal hearing granted by MCD, handed over in Court by counsel for MCD. Documents are taken on record. From the proceedings it is evident that Petitioner is completely aware of the unauthorized construction in his building as also that personal hearing is being granted to him and on his request, further time was granted to rectify the construction and the next date of hearing is 29.01.2025. There is substance in the objection of the Respondent that Petitioner has not come to this Court with clean hands.

10. Considering that the next date for personal hearing is scheduled for 29.01.2025, no further order is required to be passed in this petition and the same is accordingly dismissed, cautioning the Petitioner to be careful in future while approaching the Courts.

11. It is made clear that any action taken by MCD after the personal hearing will be in consonance with law as also the judgment of Supreme Court in *In Re: Directions in the matter of demolition of structures, 2024 SCC OnLine SC 3291*. In case of any grievance against the action taken by MCD, it will be open to the Petitioner to take recourse to appropriate legal remedy before the appropriate forum.

12. Pending application stands disposed of.

JYOTI SINGH, J

JANUARY 27, 2025

B.S. Rohella