

\$~SB-4&5.

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

+ **W.P.(C) 5569/2021**

COURT ON ITS OWN MOTION

..... Petitioner

versus

NORTH DELHI MUNICIPAL

CORPORATION AND ORS.

.... Respondents

+ **W.P.(C) 14790/2021**

COURT ON ITS OWN MOTION

..... Petitioner

versus

GOVERNMENT OF NCT OF DELHI AND ORS. .... Respondents

**MEMO OF APPEARANCE:**

Mr. Rajat Aneja (Amicus Curiae) and Ms. Rajula,, Ms. Sagrika Wadhwa  
Advocates.

Mr. Divya Prakash Pande, Standing Counsel for respondents/  
Nr.DMC& SDMC.

Mr. Tushar Sannu, Standing Counsel with Ms. Priyansha Sinha,  
Advocate for respondent/ EDMC in W.P. (C.) No. 14884/2021 & W.P.  
(C.) No. 8504/2021.

Mr. Satyakam, ASC with Jyoti Mehra, Advocate and Chief Secretary  
(UD) GNCTD, Sh. VS Rawat, Sh. R. Kahuja DS (UD), and Sh. Deepak  
SO (UD) for respondent/ GNCTD.

Ms. Sakshi Popli, Advocate for respondents/ DJB & NDMC.

Mr. Tarveen Singh Nanda, Standing Counsel for respondent/ Delhi  
Cantonment Board.

Ms. Rashmi Chopra, Advocate for respondent/ DDA.

Mr. Keshav P. Singh, Advocate and Mr. Raja Singh, Research and  
Scholar and Visiting Faculty, Department of Architecture.

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE JASMEET SINGH**

## **ORDER**

**20.05.2022**

%

1. Mr. Aneja, the learned Amicus has carried out the activity requested of him vide order dated 25.03.2022. After interacting with the officials of the local bodies, he has suggested that the Deputy Health Officer (DHO), who is a qualified MD/ MBBS doctor, for each zone he heads, should be made the officer responsible for enforcement of the common protocol which has been evolved by the Municipal Corporations and other local bodies and authorities in terms of earlier orders. Similarly, for the NDMC and the Delhi Cantonment Board areas, the corresponding officers, namely the Chief Medical Officer (CMO) for NDMC, and the Assistant Health Officer for the Delhi Cantonment Board should be made responsible.

2. The overall responsibility to supervise implementation of the common protocol, it goes without saying, should rest with the Municipal Commissioner who shall, in co-ordination with the DHOs ensure that the protocol evolved is strictly implemented. We direct that the DHOs in the Municipal Corporations; the CMO in NDMC, and; Assistant Health Officer (AHO) in Delhi Cantonment Board shall be personally responsible to implement the common protocol. The Commissioner of the MCD and the Chief Executive Officer of the NDMC and DCB shall be personally responsible to supervise the working of the DHOs, CMO and AHO respectively. Failure to perform their duties by the aforesaid officers shall invite departmental action, as well as for Contempt of Court both individually and jointly.

3. The common protocol has been placed on record by all the 3

Corporations. Mr. Pande, who appears for the SDMC has referred to the same. Mr. Aneja has also examined the same and his only comment is that the remaining concern is with regard to its actual implementation on the ground.

4. Mr. Pande does not dispute the fact that the ultimate responsibility for prevention of mosquito infestation rests with the Municipal Corporations. He, however, submits that the other local bodies and authorities noticed by us in these proceedings, who have also agreed to the common protocol, should equally cooperate. We direct all the local bodies/ authorities/ departments to strictly comply with, and fulfil their respective obligations as enlisted in the common protocol, which has been evolved in consultation with them and with their consent. They shall all remain bound by the said common protocol. Failure to comply with the same, and lapses in implementation of the common protocol shall be viewed seriously, and the Chief Executive Officers of the other local bodies/ authorities shall be personally held liable for the same.

5. Ms. Popli, who appears for the Delhi Jal Board undertakes to place before this Court, the calendar of activities that the Delhi Jal Board shall undertake to prevent mosquito infestation, since the Delhi Jal Board is managing sewer drains and several water bodies which are also a source of mosquito breeding. Let the same be filed within 4 weeks along with an affidavit.

6. So far as the Irrigation and Flood Control Department of the Government of NCT of Delhi is concerned, Mr. Satyakam has drawn our attention to the tabulation placed on record with regard to the action taken on various aspects. The said Department shall also file on affidavit, the calendar of the activities

that they would undertake round the year to prevent mosquito breeding. The same be also filed within 4 weeks.

7. On the aspect of imposition of fine, the stand of the NDMC is that they are mooted a proposal for raising the fine from Rs.500/- to Rs.50,000/-, and also imposition of on the spot fines. So far as the GNCTD is concerned, Mr. Satyakam submits that the proposal to increase the fine from Rs.500 to Rs.5,000/- is under process. We may take note of the fact that the Municipal Corporations had proposed enhancement of fine from Rs.500/- to Rs.50,000/- and also the imposition of on the spot fines. However, the proposal for increase has been limited to only Rs.5,000/-, and on the spot fines is not proposed at all. Mr. Aneja submits, and we entirely agree with him, that the efficacy of the system of imposition of fines as a deterrent would be completely lost, if fines are not imposed on the spot. We may also notice that mere challaning the violators and those found guilty of allowing mosquito breeding in their premises, would only lead to explosion of such cases in the Courts, and adding to the already existing heavy burdens that the subordinate Courts have to deal with.

8. In our view, the GNCTD should seriously examine the proposal for imposition of fines – on the spot, if a deterrence has to be created in the minds of the people to not allow mosquito breeding in their premises. We are also of the view that where institutions are found guilty of such conduct, the quantum of fine should not be limited to merely Rs.5,000/-, and should be fixed at Rs. 50,000/-. The GNCTD shall examine these aspects at the highest level and respond on the next date.

9. Mr. Aneja also raised the issue that the Nodal Offices appointed by the public authorities, and the notices to whom notices have been issued by us, are low ranking officers in certain cases. This issue be examined by Mr. Aneja. The local body/ authority/ noticees shall provide a hierarchy of their organisation to Mr. Aneja within the next 2 weeks. We permit Mr. Aneja to place on record all such instances, and the same shall also be shared with the concerned local body/ authority/ noticees, and the said aspect shall be remedied by them before the next date of hearing.

10. Mr. Raja Singh submits that his suggestion to make it mandatory for installation of mosquito nets in buildings should be considered by the DDA. He has today tendered in Court, an application along with several annexures. A copy of the same has been served on the DDA in Court today. We direct the DDA to examine the same and respond to the suggestions made by Mr. Raja Singh before the next date of hearing. It shall be open to Mr. Raja Singh to obtain a complete copy of the digital record of the present proceedings from the Registry.

11. A copy of this order be communicated electronically by the Registry to all the party noticed by us in these proceedings for strict compliance.

12. List on 15.07.2022.

**VIPIN SANGHI, ACJ**

**JASMEET SINGH, J.**

**MAY 20, 2022/N.Khanna**