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

Reserved on: October 16, 2026

% ***Pronounced on: November 02, 2026***

\# **CNR No. DLHC010150242026**

\+ **W.P.(C) 4875/2026, CM APPL. 23966/2026**

KRISHAN KUMAR SHARMA .....Petitioner

Through: Mr. Avadh Bihari Kaushik and Mr. Rishabh Kumar, Advocates (9811455431) Mr. Avadh Bihari Kaushik Advocate

versus

MUNICIPAL CORPORATION OF DELHI AND OTHERS .....Respondents

Through: Mr. Rakesh Kumar and Mr. Puneet Kumar, Advs. for R3 (9718302748) Mr. Yudhvir Singh Chauhan, Advocate for MCD (9810153709) Mr. Navvneet Bhardwaj, Mr. Mukesh Kaushik and Mr. Puneet Gupta, Advocates for R4 to R8 (8447946944)

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present petition under *Article 226* of the Constitution of India, the petitioner seeks the following reliefs:-

> "*(i) A Writ of Certiorari or any other writ, order or direction calling for the records of the case and peruse the same;*
>
> *(ii) A Writ of Certiorari or any other writ, order or direction thereby quashing the 'No Objection Certificate/*

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Permission letter dated 33 24.03.2026' (ANNEXURE-P-1) issued by MCD/ respondent No.1 and 2 to the private respondents No. 4 to 8 to install their individual lift in the premises of the Society/ respondent No. 3, being the same having been issued illegally and arbitrarily without conducting any ground survey and physical inspection and without following its own earlier permissions granted to already installed other six (06) lifts in the same Society;

(iii) A Writ of Mandamus or any other writ, order or direction thereby directing the respondent No. 1 and 2 to immediately withdraw, cancel and revoke the permission letter/ NOC dated 24.03.2026 (ANNEXURE-P-1) and to issue a fresh one, if applied, for installing the lift at the appropriate location in the line and align to the locations of other six (06) lifts already installed in the same Society;

(iv) A Writ of Mandamus or any other writ, order or direction thereby directing the respondent No. 3/ Management of the Saraswati Enclave Group Housing Society Limited, to ensure that the lift is not installed at the present location objected to by the petitioner and the same is installed at the other available locations in uniformity, line and align to the other six (06) lifts installed in the same Society;

(v) A Writ of Mandamus or any other writ, order or direction thereby directing the respondent No. 4 to 8 not to install the proposed lift at the location objected to by the petitioner which is completely blocking the main balcony of the petitioner's flat and preventing fresh air and direct sun-light and natural view to it;"

2. As per learned counsel for the petitioner, No Objection Certificate dated 24.03.2026[1] granted to respondent nos. 3 to 8 by respondent nos. 1 and 2/ MCD ought to be quashed since the same has been granted for the

[1] Hereinafter referred to as "***NOC***"

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installation of a lift at the front end without conducting a ground survey or physical inspection of the site where the proposed lift is to be installed, which, if installed, would completely obstruct the access of sunlight and fresh air into the balcony of the petitioner; who is residing at the first floor of the building. Therefore, the installation of the proposed lift would violate the fundamental rights of the petitioner.

3. Further, as per him, *six* other lifts are already operational in the same society, and all those are situated at the rear end/ blind walls of the respective buildings. In fact, he had submitted that the permission granted by respondent no.3 *via* letter dated 27.01.2026 categorically stated that the same be installed, "*preferably on the blind wall*" and, thus, construction of the proposed lift at the front end is in violation of the same as also the '*Policy for installation of lift and connecting bridge in CGHS (Co-operative Group Housing Society), DDA built flats (low rise flats) in NCT of Delhi issued by DDA, 2015*'[2].

4. Based thereon, it is primarily the case of the petitioner that the proposed lift ought to be installed at the alternative site in conformity with the other *six* lifts existing in the complex/ society.

5. *Per contra*, learned counsel(s) for respondent nos.3 to 8 cumulatively submitted that the present petition is not maintainable as there is no actual violation of fundamental right to air and sunlight based on the photographs annexed with the Counter Affidavit(s) filed by them. In any event, the relief *qua* quashing of the NOC issued by respondent nos.1 and 2/ MCD is

[2] Hereinafter referred to as "***Lift Policy***"

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a matter to be adjudicated by the learned Appellate Tribunal MCD[3] and not by way of this petition under *Article 226* of the Constitution of India, particularly, since there are no grounds for adjudication by this Court.

6. In support of the above, learned counsel for respondent nos.1 and 2/ MCD submitted that pursuant to the order dated 22.07.2026 passed by this Court, it has been found that the area where the proposed lift is to be installed is viable and the NOC has been granted only after following due process of law.

7. This Court has heard learned counsel for the parties and also perused the documents on record.

8. The primary issue raised herein pertains to the revocation/ cancellation of the NOC *qua* installation of the proposed lift at the said site, which is *allegedly* blocking sunlight and fresh air at the balcony of the petitioner residing at the first floor of the building.

9. In the considered opinion of this Court, the challenge to the permission granted for the installation of a lift is, *de facto*, a challenge to the sanction granted for the erection of a building and/ or the execution of a work under *Section 336* of the Delhi Municipal Corporation Act, 1957[4], which falls within the ambit of *Section 347(B)* of the Act. This is more so since the installation of a lift itself involves construction related work(s) requiring approval from the MCD, falling within the contours of *Section 336* of the Act, which, in turn is appealable under *Section 347(B)* of the Act as held by the Co-ordinate Bench(es) of this Court in ***Sh. S. S. Chouhan &***

[3] Hereinafter referred to as "***ATMCD***"

[4] Hereinafter referred to as "***Act***"

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Ors. vs. Municipal Corporation of Delhi & Ors.[5] and ***Sudha Ramanathan vs. Municipal Corporation of Delhi & Anr.***[6]. In fact, the position laid in ***Sh. S. S. Chouhan (supra)*** has been affirmed by the Hon'ble Division Bench of this Court in the judgment entitled ***Chander Kant Sood & Anr. vs. Municipal Corporation of Delhi & Ors***.[7]

10. Even otherwise, based on the materials (including the photographs filed) available on record, there is nothing of the kind sought to be portrayed by the petitioner, particularly, regarding the sunlight and/ or fresh air, and there is no Report to substantiate that. In any event, the contentions sought to be raised by the petitioner herein are all disputed questions of fact requiring due determination, which are outside the writ jurisdiction as they require trial as this Court is also not a fact-finding authority.

11. As such, in view of the afore-going, the petitioner has failed to inspire any confidence in this Court for it to exercise the powers vested under *Article 226* of the Constitution of India.

12. Thus, the present petition, alongwith pending application, is dismissed with no orders as to costs. Needless to say, the stay granted *vide* order dated 13.06.2026 also stands vacated.

SAURABH BANERJEE, J.

NOVEMBER 2, 2026/So

[5] W.P.(C) 17747/2022
[6] W.P.(C) 15788/2023
[7] LPA 560/2025

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