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

*Date of decision: 13<sup>th</sup> March, 2026*

*Uploaded on: 18<sup>th</sup> March, 2026*

+ **W.P.(C) 2546/2020**

ANOOP SHANKAR

.....Petitioner

Through: Mr. N. Prabhakar, Mr. Uday Sharma  
and Mr. Shailesh Sharma, Advs.

versus

GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI AND  
ORS. ....Respondents

Through: Mr. Sameer Vashisht, Standing  
Counsel (Civil) GNCTD with Ms.  
Harshita Nathrani, Adv. for R-1 .  
Mr. Akhil Mittal, Standing Counsel  
for MCD with Ms. Riddhi Jain, Ms.  
Archie Garg, Ms. Shayna Das  
Pattanayak, Advs. for MCD  
Mr. Febin Mathew Varghese, Ms.  
Soyarchon Khangrah, Advs. for R-4.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE MADHU JAIN**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present writ petition has been filed by Petitioner - Anoop Shankar under Article 226 of the Constitution of India, *inter alia*, challenging the notification bearing no. F.13(43)/MB/UD/2014/1602 dated 29<sup>th</sup> July, 2016 issued by the Urban Development Department of the Government of National Capital Territory of Delhi in respect of his property being 317, Kucha Ghasi



Ram, Chandni Chowk, Delhi-110006.

3. The prayer in the present writ petition is for quashing of the said notification which declares the said property of the Petitioner to be a heritage site. The case of the Petitioner is that the said notification has been issued without following the due process. The prayers in this writ petition are as under:

*A. Issue a writ of certiorari or a writ in the nature of certiorari quashing (a) the notification number F.13 (43)/MB/UD/2014/1602 dated 29th of July 2016 by the Urban Development Department of the Government of NCT of Delhi, the respondent no.1 as ultra vires qua the petitioner's property i.e. 317, Kucha Ghasi Ram, Chandni Chowk, Delhi-110006 (b) the letter number 7410/17 dated of November 2017 by the Town Planning Department of North Delhi Municipal Corporation, the respondent no. 3.*

*B. Issue a writ of quo warranto directing the respondents to explain as to under what provisions of law and by what authority the property of the petitioner was declared to be a heritage property.*

*C. Issue a writ of declaration declaring that the petitioner's property has been declared as a heritage site/property without complying with the procedure envisaged in the building bye laws be it the Unified Building Bye Laws for Delhi 2016 or the Building Bye Laws 1983.*

4. The case of the Petitioner is that the property of the Petitioner was constructed by one Sh. Lala Ram Swaroop Khanna in 1924 and at that time, it was described as House No. 130. Thereafter, it was gifted by late Sh. Khanna on 5<sup>th</sup> September, 1941 to his nephew *i.e.*, Sh. Radhey Shiam Ji by



way of a registered gift deed. The said beneficiary thereafter executed a Will in favour of Sh. Ram Shankar on 17<sup>th</sup> May, 1971. A dispute was raised by one Ms. Parvati Khanna against Sh. Radhey Shiam which was referred to arbitration. An arbitral award was passed in favour of Sh. Radhey Shiam, by sole Arbitrator namely, Sh. Krishan Khanna, on 28<sup>th</sup> February, 1973. The same was made the rule of the Court on 14<sup>th</sup> March, 1973.

5. The said Sh. Ram Shankar in whose favour the property was transferred, expired leaving behind three legal heirs *i.e.*, his two sons Shri Ravi Shanker, Shri Anoop Shanker and daughter Ms. Rekha Mehra. The present petition has been filed by one of his sons, *i.e.*, Shri Anoop Shankar in whose favour, his sister has executed a relinquishment deed in favour of both brothers on 4<sup>th</sup> November, 2012. As per the Petitioner, the status of the heirs of the brother have not been set out in the present petition.

6. Sometime in 2015, the Heritage Conservation Committee (hereinafter, 'HCC') is stated to have received a communication from North Delhi Municipal Corporation now Municipal Corporation Delhi (hereinafter, 'MCD') by which approval was sought in respect of 526 heritage sites and 26 properties falling in South Delhi. The HCC had in its minutes sought certain clarifications on 21<sup>st</sup> October, 2016.

7. It is the case of the Petitioner that while the matter was pending with the HCC for clarification, the impugned notification was issued declaring the property of the Petitioner as a heritage property.

8. Mr. Prabhakar, Id. Counsel appearing for the Petitioner has relied upon Clause 7.26 of the Unified Building Bye Laws of Delhi, 2016 read with Clause 1.5 of Annexure-2 of the Unified Building Bye Laws of Delhi, 2016 to argue that the impugned notification was issued without the advice of the



HCC on the basis of certain recommendations made by a third-party organisation named INTACH which has no statutory mandate.

9. It is his further submission that specific orders were passed by this Court on 3<sup>rd</sup> February, 2025 wherein the ld. CGSC was directed to file a specific affidavit clearly setting out whether the prior approval of HCC was taken prior to issuance of impugned notification. It is the submission on behalf of the Petitioner that no such affidavit has been filed.

10. Ld. Counsel for the Petitioner has relied upon the various affidavits filed by the Government of National Capital Territory of Delhi (hereinafter, 'GNCTD'), the MCD as also the HCC to argue that none of them is owning up the responsibility for issuing of the said notification. Finally, it is submitted that the said notification has been issued in complete violation of the principle of *Audi Alteram Partem* as the Petitioner has not been given any hearing.

11. On behalf of the GNCTD, Mr. Sameer Vashisht, ld. Standing Counsel has made a submission that insofar as the public notice is concerned, the same was given in accordance with Unified Building Bye Laws of Delhi, 2016. Ld. Standing Counsel for the GNCTD submits that INTACH had got the same published on 6<sup>th</sup> September, 2014, 7<sup>th</sup> September, 2014 and 11<sup>th</sup> September, 2014 in the newspapers and after the impugned notification was published, the writ petition has been filed with a delay of more than four years.

12. Ld. Standing Counsel places reliance upon Clause 23 of the Unified Building Bye laws, 1983 which was added to the 1983 Bye Laws wherein the process/procedure for declaration of Heritage Sites and Heritage Buildings has been set out. Specifically, the ld. Standing Counsel relies upon Clause 23 of the Unified Building Bye laws, 1983 to argue that there is no prejudice which is caused to the Petitioner inasmuch as repairs, maintenance etc. can all



be carried out by the Petitioner and even the sale of the said property can be carried out, however, with the prior permission of the MCD.

13. Insofar as the MCD is concerned, Mr. Mittal, Id. Counsel appearing for the MCD submits that the list was published upon the recommendation, after the inspection and survey was conducted by the INTACH. Id. Counsel for the MCD submits that after the list was published, a notice to the general public as also a declaration was issued. Similar to the GNCTD, MCD also relies upon Clause 23 of the Unified Building Bye laws, 1983 in its counter affidavit.

14. Insofar as the subject property is concerned, it is submitted by the Id. Counsel for the MCD that the said property falls under category of Grade III of the impugned notification which has been issued and accordingly, internal changes and adaptive re-use is allowed. Id. Counsel further submits that the restrictions are not as high as in the case of Grade I and Grade II.

15. Insofar as the HCC is concerned, it has filed an affidavit giving the details of the manner in which the HCC functions. In the said affidavit, various clauses of Annexure-2 of the Unified Building Bye Laws of Delhi, 2016 are set out. The same also mentions the responsibilities and restrictions of such heritage buildings. Insofar the present notification is concerned, HCC states as under:-

*“Invitation of Objections and Suggestions- 2014*

*12. It is stated that in accordance with clause 1.5 of Annexure II to the Bye-Laws Respondent No.1 by a newspaper publication on 6-9-2014 and 7-9-2014 (p.163-164, 167) invited objections to the proposed supplementary list of heritage structures. Respondent No.3 on 26-11-2014 (p.142-145) by a newspaper*



*publication invited objections from the Public to the proposed list of heritage structures.*

#### *Consultation with HCC*

*13. It is stated that the Committee at its 43rd meeting held on 20-3-2015 (p.218) considered a communication from Respondent No.2 requesting it to consider a supplementary list of 554 heritage sites proposed to be notified as heritage sites under the Bye-Laws. The Committee requested Respondent No.2 to provide further details including detail inventory, location/site plan, photographs of each and every building with write up and justification of grading of buildings.”*

*14. Thereafter the Committee at its 51st meeting held on 21-10-2016 (p.218) again considered the proposal with respect to the supplementary list of heritage sites. The Committee was informed that Respondent No.1 by a gazette notification of 29-7-2016 had notified 551 Heritage sites including Heritage Buildings, Heritage precincts and Natural Feature areas. The Committee requested MCD to supply the information sought at the meeting of 20-3-2015 within 15 days.*

*15. Pursuant to the Committee’s direction of 21-10-2016, MCD supplied the necessary information which were taken record of by the Committee at its meeting of 16-12-2016.*

16. It is also pointed out that in the 52<sup>nd</sup> meeting of the HCC on 16<sup>th</sup> December, 2016, the HCC has in effect approved the advice and recommendations of INTACH.

17. The Court has heard the Id. Counsels and has considered the matter. Clause 7.26 of the Unified Building Bye-Laws for Delhi, 2016 is set out below:



***“7.26 Provision for Conservation of Heritage Sites including Heritage Buildings, Heritage Precincts and Natural Feature Areas.***

*Provision for Conservation of Heritage Sites including Heritage Buildings, Heritage Precincts and Natural Feature Areas shall be as per Annexure –II.”*

18. Clause 1.5 of Annexure-2 of the Unified Building Bye Laws of Delhi, 2016 is also set out below: -

***“1.5 Preparation of List of Heritage Sites including Heritage Buildings, Heritage Precincts and Listed Natural Features Areas:***

*Preparation of List of Heritage Sites including Heritage Buildings, Heritage Precincts and Listed Natural Features Areas is to be prepared and supplemented by the Commissioner MCD/ Vice-Chairman DDA/Chairman NDMC on the advice of the Heritage Conservation Committee. Before being finalized, objections and suggestions of the public are to be invited and considered. The said list to which the regulation applies shall not form part of this regulation for the purpose of Building Bye-laws.*

*The list may be supplemented from time to time by Government on receipt of proposal from the agency concerned or by Government suo moto provided that before the list is supplemented, objections and suggestions from the public be invited and duly considered by the Commissioner, MCD/ Vice-Chairman DDA/Chairman NDMC and/or Government and/ or Heritage Conservation Committee.*

*When a building or group of building or natural feature areas are listed it would automatically mean (unless otherwise indicated) that the entire property including its entire compound/plot boundary along with all the subsidiary structures and artifacts, etc.*



*within the compound/plot boundary, etc. shall form part of list.”*

19. Clause 23 of the Unified Building Bye laws, 1983 which is relied upon by the Id. Standing Counsel for the GNCTD, in respect of conservation of heritage sites, would also be relevant. Specifically, Clause 23.3 of the Unified Building Bye laws, 1983 is set out below:

*“Restrictions of the Owners of Heritage Buildings*

*(i) No development or redevelopment or engineering operation or additions / alterations, repairs, renovations including painting of the building, replacement of special features or plastering or demolition of any part thereof of the said listed buildings or listed precincts or listed natural feature areas shall be allowed except with the prior permission of Commissioner, MCD/Vice Chairman DDA/Chairman NDMC. Before granting such permission, the agency concerned shall consult the Heritage Conservation Committee to be appointed by the Government and shall act in according with the advice of the Heritage Conservation Committee.*

*(ii) Provided that, before granting any permission for demolition or major alterations additions to listed buildings (or buildings within listed streets or precincts), or construction at any listed natural features, or alteration of boundaries of any listed natural feature areas, objections and suggestions from the public shall be invited and shall be considered by the Heritage Conservation Committee.*

*ii) Provided that, only in exceptional cases, for reasons to be recorded in writing, the Commissioner, MCD/ Vice Chairman*



*DDA/Chairman NDMC may refer the matter back to the Heritage Conservation Committee for reconsideration.*

*However, the decision of the Heritage Conservation Committee after such reconsideration shall be final and binding.”*

20. A perusal of the above clauses would show that there is no doubt that under Clause 1.5 of the Unified Building Bye-Laws for Delhi, 2016, the list of heritage sites, heritage buildings and heritage precincts have to be prepared on the basis of advice received by the HCC and before being finalised objections and suggestions of the public are to be invited and considered.

21. In the present case, the HCC was already considering the matter including for the declaration of the Petitioner’s properties as a heritage building.

22. *Vide* minutes of meeting dated 20<sup>th</sup> March, 2015, the HCC has observed as under:

*“3. As mentioned by the Chief Town Planner in his letter also, earlier, under clause 23.5 of the Unified Building Bye-laws, the list was prepared by the unified MCD and approved by Heritage Conservation Committee which was notified by Delhi Government vide notification no. F.No. 7(367)/227/2002/UD/841 dated 25.02.2010. For NDMC area the list of Heritage buildings was notified by the Delhi Government vide notification no. F.No.4/2/2009/UD/16565 dated 01.10.2009. Further some other heritage buildings have also been notified by the Delhi Government.*

*4. The matter was examined in above background and also discussed with Shri P. Dinesh, Senior*



*Town Planner, North DMC. The HCC observed that the informations furnished by the Municipal Corporation are inadequate for scrutiny of the proposal. Therefore, following need to be submitted to the HCC:*

- 1. Detail Inventory/list of proposed buildings/precincts.*
- 2. Detail location/site plan of each buildings.*
- 3. Photographs of each and every building with write up on history of the building/precinct.*
- 4. Justification for grading of the buildings.”*

23. The next meeting of the HCC in fact, took place only on 21<sup>st</sup> October, 2016 by which time, the impugned notification has been issued. However the GNCTD has placed on record the publications which were issued in the various newspapers which are dated 6<sup>th</sup> September, 2014, 7<sup>th</sup> September, 2014 and 11<sup>th</sup> September, 2014. Moreover, the public notice was duly issued.

24. The matter was thereafter, pending before the HCC and INTACH had given its recommendations. The only issue that would be required to be considered is whether this notification could have been only issued after the advice of the HCC or could have been issued while the HCC was considering the matter.

25. A plain reading would show that the advice of the HCC ought to have come first, however, in this case, the HCC has thereafter approved the same. In so far as recommendation of INTACH for the subject property is concerned, the observations of INTACH are as under:

*“Further to the existing list of 767 Heritage Buildings/sites notified on 25.02.2010, under section 23.1 and 23.5 of the Delhi Building Byelaws 1983, we are enclosing herewith, a list of 554 (Five*



*hundred and fifty four) heritage sites in the walled city of Shahjahanabad, compiled in December 2013, which we recommend be added to the original List of Heritage Sites and duly notified for Conservation and Protection.*

*These 554 Heritage Sites are neither protected by the Archaeological Survey of India nor notified by the State Department of Archaeology. This initiative is part of our ongoing efforts to conserve the heritage of the walled city of Shahjahanabad, which forms an essential component of the area proposed for nomination of Delhi as a UNESCO World Heritage City.”*

26. Moreover, similar matters had been filed before this Court challenging the same very notification being *W.P.(C) 16668/2025* titled ‘*Ashok Jain & Ors. v. Government of NCT of Delhi Ors.*’ and *W.P.(C) 5471/2018* titled ‘*Sh. Girdhari Lal Tiwari v. Govt. of NCT of Delhi*. Ld. Single Judge of this Court in *W.P.(C) 5471/2018* while dealing with the said notification *vide* judgment dated 12th February, 2024 directed as under:

**“8. After considering all facts, the petitioner is directed to file a representation for delisting of the property in question from the scope of gazette notification dated 03.08.2016 within 15 days from today along with necessary documents. Thereafter, the respondent is directed to dispose of the representation, if any, filed by the petitioner as early as possible, preferably, within a period of 02 months after considering the objections and the documents to be filed on behalf of the petitioner. The concerned authority of the respondent, if deems fit, may give a personal hearing to the petitioner for taking a final decision. However, it is made clear that till the disposal of the representation, if any, filed by the petitioner, the**



**gazette notification dated 03.08.2016 shall remain in force qua the property in question.**

9. *The present petition along with pending applications, if any, stands disposed of with liberty to the petitioner to initiate appropriate legal proceedings in case of altered circumstances.*

10. *Copy of this order be given dasti to the petitioner and the respondent for doing the needful.*

11. *It is made clear that no opinion is expressed on the rights and contentions of the parties in the present petition.”*

27. On an overall conspectus, it is clear that the authorities, on the recommendation of INTACH have considered the matter but the biggest issue which has not been considered by any of the authorities is that the Petitioner has not been called for any hearing.

28. The notification itself dates back to 2016 and is more than 10 years old. The writ petition has been filed in 2020. In order to bring a closure to this case, this Court is of the view that the interest of justice would be met if the Petitioner is permitted to be heard before the HCC in the presence of officials of the GNCTD and the MCD. The INTACH which has given the report, may also be represented in the said hearing.

29. After hearing the Petitioner, the HCC will place its advice before the concerned department of the GNCTD or MCD as to whether it approves the declaration of the Petitioner's property as a heritage building or not.

30. On the said basis, the Government could proceed and take a decision within a period of six months from today.

31. The HCC shall also consider as to whether the Petitioner's prayer for delisting of the Petitioner's property would be valid or not.



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32. This order shall not act as a precedent. Each case would have to be considered on its own merits.

33. The petition has been disposed of in the above terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH  
JUDGE**

**MADHU JAIN  
JUDGE**

**MARCH 13, 2026/ys/ck**