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

+ W.P.(C) 6455/2015

**RAMESH DUGAR CONVENER AREA  
DEVELOPMENT COMMITTEE SAINIK FARMS..... Petitioner**

Through: Mr. Rahul Sharma, Mr. Jitender Ratta  
and Mr. Ayush Bhatia, Advocates.

versus

**SOUTH DELHI MUNICIPAL  
CORPORATION AND ORS.**

..... Respondents

Through: Mr. Sanjeev Sabharwal, Advocate for  
SDMC.  
Mr. Sameer Vashisht and Ms. Sanjana  
Nangia, Advocates for respondent  
Nos. 2 & 4.  
Ms. Manika Tripathy, Mr. Ashutosh  
Kaushik, Mr. Shubham Hasija and  
Mr. Manish Vashist, Advocates for  
respondent No. 5/ DDA.  
Mr. Anurag Ahluwalia, Mr. Danish  
Faraz Khan and Mr. Rishab Narayan,  
Advocates for CGSC.

**CORAM:  
HON'BLE THE ACTING CHIEF JUSTICE  
HON'BLE MR. JUSTICE NAVIN CHAWLA**

**ORDER  
27.04.2022**

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1. This writ petition has been pending since the year 2015. It concerns the area popularly known as Sainik Farm area. The petition has been preferred by a resident of the Sainik Farm area. The petitioner states that he

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is the convenor of the Area Development Committee of the Sainik Farm area which encompasses Maidan Garhi, Devali, Neb Sarai, Khirki Extn., Saidulajab Villages located in South Delhi.

2. The grievance of the petitioner is that even though the respondents have adopted and implemented a policy for regularisation of unauthorised colonies, when it comes to the Sainik Farm area, a discriminatory approach is adopted by the respondents, and they have not taken the decision to regularise the Sainik Farm area.

3. The order dated 02.11.2016 shows that the GNCTD sent its proposal to the Union of India for regularisation of Sainik Farm area. That decision has still not been taken. It appears that, in the meantime, this petition was also directed to be listed along with a couple of other petitions dealing with the raising of unauthorised construction in Sainik Farm area, and this Court passed orders to restrain the same from time to time. On 09.11.2016, it was stated on behalf of the SDMC that Geo Spatial Maps of the Sainik Farm area for the year 2007 onwards would be filed to be able to compare the changes taking place in the area.

4. The record shows that since it was alleged that unauthorized construction continued unabatedly in the Sainik Farm area despite Court directions restraining the same, Vigilance enquiries were undertaken by the Corporation, and the Court also contemplated an investigation by CBI into the same.

5. On 08.02.2017, this Court again directed the Union of India to inform the Court, on the next date of hearing, as to what has happened to the proposal submitted by Delhi Government with regard to Sainik Farms.

6. On 19.05.2017, this Court was informed that the Union Urban

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Development Ministry is actively finalizing the regularization plan in consultation with the Govt. of NCT of Delhi and the concerned agencies. This Court directed that appropriate affidavits to that effect be filed by the Secretary, Ministry of Urban Development, Govt. of India and the Principal Secretary Urban Development, Govt. of NCT of Delhi, indicating the steps and necessary timelines, given that this issue has been pending for over a decade.

7. On 18.08.2017, the minutes of meeting held on 14.06.2017, 03.07.2017 and 25.07.2017, regarding regularization of unauthorized colonies in Delhi, were placed before the Court. The GNCTD, in the last said meeting, indicated that two years are required to undertake a fresh survey to compile any data. However, the general consensus in the meetings was that the two years' timeline is a too long time frame and a shorter time frame is necessary. The Union of India was directed to file a detailed affidavit with respect to the tentative proposals it wishes to adopt.

8. We may observe that this order shows that the meetings were held generally for the whole of NCT of Delhi and were not specific to the Sainik Farm area.

9. At this stage, we may notice that in ***Paardarshita Public Welfare Foundation (NGO) v. Commissioner South Delhi Municipal Corporation and Anr***, W.P.(C) 1145/2014, vide order dated 31.05.2017, a Committee was constituted by the Court. The relevant extract from the said order reads as follows:

*“The issue concerning regularization of unauthorized colonies has engaged attention of all public agencies and till date no concrete decisions appear to have been taken. The various*

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*orders made in these proceedings have highlighted that the process of exchange of information towards ultimate policy formulation and implementation has continued for over a decade. The latest affidavits are part of that series of consultations.*

*This Court is of the opinion that given the fact that both the Union Government and the Government of NCT of Delhi have essentially a policy consensus about the need for regularization but have failed to concretize the controlling principles that are to guide the implementation of such policy, greater urgency in the approach is necessary. Multiplicity of the number of public agencies within the city appears to have been one of the prime reasons for impediments in the swift decision making of the issue. Having regard to these facts, the Court is of the opinion that a Committee chaired by the Union Urban Development Ministry and comprising all important officials who have a stake in the governance of the city of Delhi is required to be constituted, to seriously address the issue on a stipulated periodic basis. The Court hereby constitutes the Committee comprised of the following officers:-*

- (i) Secretary, Ministry of Urban Development, Union of India (Chairman)*
- (ii) The Principal Secretary, Urban Development, Government of NCT of Delhi.*
- (iii) The Vice-Chairman, Delhi Development Authority.*
- (iv) Each of the Commissioners of the 3 Municipal Corporations i.e. the South Delhi Municipal Corporation, the North Delhi Municipal Corporation and the East Delhi Municipal Corporation.*
- (v) Chairperson, NDMC.*
- (vi) Chief Executive Officer of Delhi Jal Board.*
- (vii) Director General, CPWD.*
- (viii) Secretary, Public Works Department, GNCTD.*
- (ix) Chief Executive Officer, Cantonment Board.*
- (x) The CEOs of all the electricity distribution companies (BSES Rajdhani and NDPL and BSES Yamuna Power Corporation Ltd.).*

*The above Committee shall meet not less than twice a month –*

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*with an interval of a fortnight in each case. The Committee should be assisted ideally by all the officers who can meaningfully participate and make suggestions with respect to the decisions to be taken.*

*The Committee shall take into account all relevant criteria – not necessarily confined to the 20 heads mentioned in the affidavits. At the same time, if the Committee feels that some of the heads or the criteria are not relevant or practical, it is open to them to discard it. In other words, the Committee should exercise its discretion to the fullest extent while formulating the policies most beneficial for achieving the goal of regularization. In other words, the Committee may also consider the feasibility of segregating areas/localities which may require a different approach even while ensuring uniformity. For instance, where colonization is unauthorized but based upon legal landholding, the most appropriate approach – taking into consideration the larger policy elements, may also be considered.”*

10. On 27.02.2019, the submission of the petitioner that, at least, a policy decision be taken whether the Sainik Farm area could be regularised, or not, without waiting for the demarcation, was opposed by the respondents on the ground that various issues pertaining to regularisation would depend upon the Demarcation Report, particularly the nature of encroachment; land on which encroachment has been made; whether it is Government land or forest land etc. and, therefore, de hors the demarcation, the policy decision for regularisation could not be taken. The Court noticed that the ten member Committee was required to meet, at least, twice a month within an interval of a fortnight in each case, however, the Committee had not met more than six times between September, 2017 till the passing of the order dated 27.02.2019. Once again, the Court directed the Committee to meet within every 15 days.

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11. This matter has been pending for about the last 7 years. As taken note of herinabove, other matters relating to Sainik Farms have been pending for even longer. Despite this Court calling upon the respondents to take a decision one way or another, on the aspect whether the respondents are agreeable to regularise Sainik Farms, no decision has still been taken. The situation now emerging is that a large number of houses/ bungalows are existing in Sainik Farms colony and thousands of persons are residing therein. However, their constructions are unauthorised and the owners/ occupiers of these properties are like Trishanku - in limbo.

12. It is open to the Government to take a call, as to what it wishes to do. If the decision of the Government is not to regularise Sainik Farms then it must, as a logical corollary, undertake demolition of the entire colony. The Government cannot let such large scale illegal constructions to continue to exist. The current state of affairs is leading to perpetuation of gross illegality which, it goes without saying, is bound to breed corruption on the one hand, and lead to harassment and sense of uncertainty in the minds of the owners/ occupiers of Sainik Farms on the other hand. However, in case, the Government takes a policy decision to regularise the Sainik Farms area, like it is done in the case of every other colony, the Government can require, as a condition of regularisation that the owners of the properties should cede a part of their land falling on the right of ways/ roads/ lanes to the extent of a few feet on each side, so as to enable the broadening of roads and laying of sewer lines and cables etc., and the Government could recover the development charges from the owners/ residents. Where Government land or Forest land has been encroached, depending on the status as it exists on the ground, the Government could either seek restoration of the land or raise

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a demand for the same on rates which may be fixed in a transparent and reasonable manner.

13. It is high time that the issue with regard to regularisation of Sainik Farms is resolved once and for all. As we have observed hereinabove, the decision in this regard has to be taken by the Government keeping in view all the relevant aspects. The Government, however, cannot duck the issue keeping the pot boiling indefinitely. We, therefore, direct both the GNCTD and the Union of India to state the decision taken by them in this regard by filing their respective affidavits before the next date of hearing.

14. List on 17.05.2022.

**VIPIN SANGHI, ACJ**

**NAVIN CHAWLA, J**

**APRIL 27, 2022**

*N.Khanna*

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