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

+ W.P.(C) 13236/2022 & CM APPL. 56064/2023, CM APPL. 60825/2023, CM APPL. 37152/2024, CM APPL. 37153/2024, CM APPL. 37154/2024

SUNAYANA SIBAL & ORS.

.....Petitioners

Through: Mr. Vivek Sibal, Senior Advocate with Ms. Smriti Sinha, Ms. Esha Dutta, Ms. Shaalini Agrawal, Mr. Siddharth Pandey and Ms. Sara Shrawani, Advocates.

versus

GOVERNMENT OF NCT OF DELHI AND ORS.Respondents

Through: Mr. Nipun Katyal, Advocate with Mr. Dhananjai Shekhawat and Mr. Archit Jain, Advocates for respondents No.1 to 3 and 7-GNCTD.

Mr. Rakesh Chaudhary, Advocate with Mr. Sushaar Chaudhary, Advocate for respondent No.4/FSSAI. Mr. Biraja Mahapatra, Advocate with Mr. Nalin Hingorani, Advs. for DPCC.

Ms. Beenashaw Soni, ASC, DDA.

Ms. Gauri Puri, Court Commissioner.

Mr. Parvinder Chauhan, Mr. Rahul Chauhan and Ms. Hema Sukhija, Advs. with Mr. P.K. Jha, Director, Mr. V.K. Maggo, Law Officer and Mr. Pranav Siroha, Legal Asst. For DUSIB.

Mr. Manu Chaturvedi, Standing Counsel MCD with Ms. Devika Singh Roy Chowdhury, Advocate along



with Mr. Raj Kmar DD(VS)/CNZ, MCD.

Mr. Kirtiman Singh, Mr. Waize Ali Noor, Mr. Varun Rajawat, Mr. Ranjeev Khatana and Mr. Varun Pratap Singh, Advocates for Union of India.

Ms. Apoorva Chauhan, Mr. Jap Singh and Mr. O.M. Sharma, Advocates for applicant.

Mr. Rajesh Pandey, Advocate with Mr. Jitender Tyagi, Mr. Gaurav Bidhuri, Ms. Harshita L, Mr. Kuldeep, Advocates for Interveners.

Mr. Gagandeep Singh Bidhuri, Advocate for Madanpur Khadar

Ms. Geetanjli Goel, OSD/REGISTRAR, Rules and Litigation.

Dr. Rakesh Singh, Director, AFI, GNCTD.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

19.07.2024

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1. Mr. Kirtiman Singh, learned standing counsel for Union of India has handed over the relevant correspondence¹ during the period 25th June, 2024 to 18th July, 2024 as regards the identification of alternate land for shifting the Ghazipur and Bhalaswa Dairies from their existing location. He has drawn this Court's attention to the contents of the letter dated 18th July, 2024,

¹ Taken on record



wherein it is recorded that Municipal Corporation of Delhi ('MCD') has submitted an estimate that it would require 155 acres (approx.) of land for shifting of Ghazipur Dairy Colony and around 30 acres (approx.) of land for shifting of Bhalaswa Dairy Colony. Mr. Kirtiman Singh states that the Ministry of Housing and Urban Affairs ('MoHUA') (i.e., Respondent No. 10) has sought information from the Government of Haryana and the Government of Uttar Pradesh for the identification of land in areas outside Delhi. He, therefore, requests for some time to place before this Court details of land for an alternate location.

2. Mr. Kirtiman Singh states that for relocation within Delhi land would have to be identified by the Delhi Development Authority ('DDA') and for this purpose, he has requested the standing counsel for DDA to remain present.

3. In response, Ms. Beenashaw Soni, learned additional standing counsel has appeared for DDA and seeks time to place before this Court proposal for an alternate location within Delhi.

4. Mr. Vivek Sibal, learned senior counsel for the Petitioners states that a perusal of the photographs annexed with the Second Report of the Court Commissioner would show that there is rampant large-scale urbanisation in the existing dairy colonies. He states that though the plots in the dairy colonies were allocated to be used as cattle sheds with strict restrictions against the conversion of the use of sheds into dwelling units, the photographs filed by the Court Commissioner show that there are commercial show-rooms operating in these dairy colonies and super-structures as high as four stories have come up for residence and commerce. He states that these structures are evident in the photographs. He states that



therefore as a matter of fact, there is no grazing area in these colonies and the cattle kept by the dairy plot allottees have no space within the plot and are in fact, kept tied outside these plots in cruel conditions. He states that the photograph shows that garbage is liberally strewn about and sewerage is flowing openly. He states that there are no bio-gas plants, which is a must for a dairy colony since there is no sewage drainage in these colonies. He states that the dairy colonies because of the rampant unauthorized construction and misuse of the land use are neither fit for the cattle nor the humans residing therein. He states that the absence of or inadequate veterinary hospitals and doctors has already been highlighted in the previous hearings.

5. He states that MCD has informed MoHUA that they require 30 acres for the relocation of Bhalaswa Dairy. He states that as per the record at Ghogha Dairy, there is unutilised land available for allotment of dairy plots and it would sub-serve the interest of the citizens and the animals if Bhalaswa Dairy is shifted to the unutilised plots in Ghogha Dairy.

6. Mr. Manu Chaturvedi, learned standing counsel for MCD confirms that approx. unutilised 83 acres are available in Ghogha Dairy Colony. He confirms that this colony falls under the jurisdiction of MCD.

7. Ms. Geetanjali Goel, OSD (Rules), High Court of Delhi, stated that she has visited Ghogha Dairy Colony and it would be appropriate if MCD takes immediate steps for setting up a bio-gas plant, identifying grazing area, lays out proper drainage, making the veterinary hospital in this dairy colony fully equipped and functional. She states that the availabilities of these essential amenities will encourage the relocation and rehabilitation of the cattle.



7.1. She states that the concerned statutory agency should also take steps to remove encroachment and misuse in Ghogha Dairy Colony. She states that presently the extent of encroachment and misuse is very small in this colony and if appropriate steps are taken by the statutory agency at this early stage, the character of this colony as a dairy colony can be maintained.

8. Mr. Parvinder Singh Chauhan, learned standing counsel for DUSIB, who appears alongwith Mr. P. K. Jha, Director, DUSIB states that Madanpur Khadar Colony falls within DUSIB's jurisdiction. He states that sixty-three (63) show-cause-notices have been issued to some of the dairy plot owners and hearings are scheduled w.e.f. 20th July, 2024. He states that DUSIB does not have the jurisdiction to demolish unauthorised construction and has called upon MCD to take demolition action. Learned counsel for MCD states that MCD will take appropriate action.

Detailed Layout Plan for Ghogha Dairy

9. The Commissioner of MCD is directed to hold a meeting next week with its concerned official, DUSIB, a representative of Petitioner in W.P. (C) 13236/2022, a representative of the dairy owner from Ghogha Dairy, the Court Commissioner and Ms. Geetanjali Goel, OSD (Rules) for drawing up a detailed lay out plan for Ghogha Dairy Colony. The said layout plan must provide for the location and earmarked areas for essential facilities pointed out by Ms. Geetanjali Goel, OSD (Rules) and other additional facilities required for a dairy colony. The layout plan be filed before this Court two days prior to the next date of hearing.

10. This Court has perused the photographs and reports of Madanpur Khadar Dairy Colony and Shahbad Dairy Colony annexed with the Second Report of the Court Commissioner. The submissions of learned senior



counsel for the Petitioner are duly borne out from the said photographs. There are large-scale constructions in this colony and the use of the constructions for residence and commerce is evident. The photographs show salons, showrooms, gymnasiums and internet cafes etc. The character of the colony has ceased to be a Dairy Colony. The photographs of injured animals with open wounds, sick animals writhing on the roadside and carcasses of dead animals lying on the roadside is a recurring sight in these photographs. There is admittedly no grazing space for the animals in these colonies and they are seen sitting on the roads in the colonies since the dairy plots allotted for housing the animals have been converted into super-structures. There is open drainage covered in filth seen in the photographs and the garbage seen is overwhelming. The standing counsel appearing for MCD and DUSIB have not disputed these photographs. Even though this matter has been heard by this Bench regularly since the beginning of this year 2024, yet the concerned authorities have been unable to take any remedial steps and the matter stands as it was.

11. Having perused the photographs of Madanpur Khadar, we are of the considered opinion that the cattle in this colony are being kept by the dairy plot owners in violation of all applicable laws including the Prevention of Cruelty to Animals (Registration of Cattle Premises) Rules, 1978. The statutory authorities charged with compliance with these rules to protect the animals have completely failed in their duty and in this process, not only have they turned a blind eye to the cruelty met out to these animals but have also ignored the fatal effect it has had on the quality of milk produced by these animals and which is being sold for consumption to the residents of the state. The milk being sold from these animals is unsafe for consumption and



despite this issue being highlighted in the Court in the last several hearings, the concerned statutory authorities are unable to get out of their slumber and take remedial steps in these colonies to ensure that the cattle have safe space, medical facilities and grazing ground so as to stop them from feeding on the garbage of the landfills.

Action against unauthorised construction in Dairy Colonies

12. Learned standing counsel for MCD and DUSIB state that for the Dairy colonies falling within their jurisdiction, they will ensure that action in accordance with the law is taken against unauthorised construction and illegal change of use. In this regard, MCD has named its officer Mr. Pawan Kumar, Deputy Commissioner, MCD, Narela Zone as the person, who will be responsible for ensuring action in all eight (8) dairy colonies to ensure that the use is brought in conformity with the allotment terms. Learned standing counsel for DUSIB states that Mr. P.K. Jha, Director, DUSIB will be responsible for compliance with this direction in the colonies falling under DUSIB. He states that DUSIB will render all assistance to MCD in its enforcement action for bringing the plots in conformity with the original allotment use.

13. Learned standing counsel for MCD states that Dr. V. K. Singh, Director, Veterinary Department MCD and Dr. Rakesh Singh, Director, Animal Husbandry Department, GNCTD will be responsible for ensuring compliance with the directions issued in this order pertaining to the welfare of the cattle in the dairy colonies.

14. Learned counsel for MCD during arguments has stated that MCD has initiated steps for the removal of unauthorised construction in these dairies colonies. The MCD and DUSIB are directed to ensure that all unauthorised



construction in all Dairy Colonies including Madanpur Khadar and Ghogha Dairy Colony are removed and the character of the plot is reverted to its original condition so as to make it conducive for the cattle in these colonies to have living conditions stipulated in the allotment terms and as per the applicable laws including the Prevention of Cruelty to Animals (Registration of Cattle Premises) Rules, 1978.

15. The officers of MCD, DUSIB and GNCTD, whose names have been noted in this order shall be personally responsible for compliance with the directions issued in this order and shall file action taken reports under their name one day before the next date of hearing.

Shifting of Bhalaswa Dairy Colony to Ghogha Dairy Colony

16. In view of the inability of the statutory authorities including MCD and GNCTD to take action to stop the milch cattle from feeding on garbage from the sanitary landfills near Bhalaswa and Ghazipur, having considered the submissions of the counsel and having perused the correspondence of MoHUA, we find merit in the submission that since the estimate of land required for shifting of Bhalaswa Dairy Colony is 30 acres and admittedly, unutilised land to the extent of 83 acres is available in Ghogha Dairy Colony, we hereby direct all these statutory authorities including MCD, DUSIB, GNCTD and MoHUA to the extent their sanctions are required to take immediate steps for shifting all the dairies from Bhalaswa to Ghogha Dairy Colony within four (4) weeks.

17. With respect to the existing dairy plots in Bhalaswa Dairy Colony in view of the aforesaid direction of shifting, the dairy plots at Bhalaswa will revert to the land-owning agency in accordance with law.

18. We may add here that the dairy plots allottees in all these colonies



have illegally converted the use of these dairy plots into commercial and residential uses. The said change in land use is without any sanction of law. The construction of the superstructure on these dairy plots is also without any sanction of law. We have perused the 5th December, 1976² allotment conditions of DDA pertaining to allotment of cattle sheds in these dairy colonies. These dairy plots were exclusively to be used as cattle sheds with a prohibition on converting the shed into a dwelling unit. Therefore, no equities can be claimed by the occupants of these superstructures.

19. List on 23rd August, 2024 at 02:30 P.M.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JULY 19, 2024/rhc/sk

² Handed over by the Petitioner is taken on record.