

Hon'ble Rakesh Srivastava, J.

Hon'ble Brij Raj Singh, J.

1. It is with utmost grief and shock that we are being forced to take suomoto cognizance of certain unfortunate events which have taken place in the city of Lucknow, over the course of the last few days.

2. Through various digital news platforms and the print media, it has come to our notice that on the morning of 05.09.2022, a major fire engulfed a well-known hotel by the name of Levana Suites, situated in a posh locality of the city of Lucknow. After several hours of persistent efforts of the rescue teams, the fire in the hotel was doused. We are pained to note that four human lives were lost in the said incident, and many more are in a critical state.

3. In a news report titled “Four killed, 11 injured in devastating city hotel fire” published in the Times of India on 06.09.2022, it has been reported that the hotel in question did not even have an approved map, and the hotel was being operated on the basis of a residential map. It has been further reported that the hotel was operating in blatant violation of several fire safety rules, with outdated and inadequate fire safety equipment. On a perusal of the said news report, it has also come to light that the Levana Suites hotel has now been sealed, and orders for demolition of the hotel have also been passed for flouting several rules and regulations.

4. The incident of fire at Levana Suites was widely covered by several digital and print media houses. The Hindustan Times published a news report titled “4 dead, 8 injured in major blaze at Lucknow hotel” on 06.09.2022. Similarly, the Dainik Jagran newspaper edition dated 06.09.2022 covered the unfortunate incident in its news report titled “अवैध बने लेवाना होटल में लगी आग, चार की मौत”.

5. We are also surprised to note that the hotel actually had a valid fire NOC at the time when this unfortunate incident took place.

A news article available at <https://zeenews.india.com/india/levana-suites-hotel-in-lucknow-where-fire-killed-four-people-to-be-demolished-2506250.html> on the Zee News website reports a statement made by Lucknow Divisional Commissioner Roshan Jacob wherein he expresses surprise on the fact that the hotel was in possession of NOC of fire department even when there was a clear lack of fire escape management system and violation of several fire related safety rules on its part. Questions have also been raised as to how the hotel was allowed to operate for several years without having proper fire exits in place.

6. The flames of the fire at the Levana Suites Hotel had not even completely cooled off when it came to our knowledge that another fire broke out in a coaching centre on 06.09.2022. A coaching centre by the name of Gravity Classes, operating from a building on the crowded Shah Najaf Road in Hazratganj witnessed two fire incidents within a space of a few hours. The Hindustan Times newspaper dated 07.09.2022 reported the incident in its news report titled “Fire breaks out at coaching centre, LDA seals bldg”. The Amar Ujala website, at <https://www.amarujala.com/lucknow/fire-broke-out-in-gravity-coaching-center-in-hazratganj-in-lucknow>, reports that the building has a narrow staircase, which resulted in several students getting stuck in the building. Once more, it was the valiant efforts of the rescue teams which managed to save the day.

7. From the above reports, it appears that several hotels, coaching centres, hospitals and commercial establishments are operating across the city of Lucknow without validly sanctioned maps and fire safety measures, with total impunity. The infractions are so obvious that the same are visible to one and all. This is a very serious state of affairs, with very wide public health and safety ramifications. The saddest part is that the loss of life and property was totally avoidable in nature, by mere adherence to the rules and regulations in place by the establishments, and its stricter implementation by the concerned authorities. It is deeply concerning to note that thousands of residential and commercial establishments

are allowed to flout the building and fire safety rules by the relevant authorities, and it is only when a major tragedy such as the incident of fire at the Levana Suites Hotel takes place that these authorities wake up from their slumber and start taking proactive steps to seal and demolish such buildings. It is difficult to believe that these wrongdoers are allowed to construct their buildings and run their establishments without the knowledge and connivance of the concerned authorities.

8. The Hon'ble Apex Court has repeatedly held that unauthorized constructions should be demolished, irrespective of the financial burden imposed upon the wrongdoers. The stance of the Hon'ble Apex Court has also been that there is an urgent need to bring to book not only the builders flouting the norms, but also the officers who are involved in the raising of such illegal constructions. In *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu, (1999) 6 SCC 464* the Apex Court held as under:

"73. The High Court has directed dismantling of the whole project and for restoration of the park to its original condition. *This Court in numerous decisions has held that no consideration should be shown to the builder or any other person where construction is unauthorised. This dicta is now almost bordering the rule of law. Stress was laid by the appellant and the prospective allottees of the shops to exercise judicial discretion in moulding the relief. Such a discretion cannot be exercised which encourages illegality or perpetuates an illegality. Unauthorised construction, if it is illegal and cannot be compounded, has to be demolished. There is no way out.* Judicial discretion cannot be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. Judges are not entitled to exercise discretion wearing the robes of judicial discretion and pass orders based solely on their personal predilections and peculiar dispositions. Judicial discretion wherever it is required to be

exercised has to be in accordance with law and set legal principles.

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81. *A number of cases come to this Court pointing to unauthorised constructions taking place at many places in the country by builders in connivance with the corporation/ municipal officials. In a series of cases, this Court has directed demolition of unauthorised constructions. This does not appear to have any salutary effect in cases of unauthorised construction coming to this Court. While directing demolition of unauthorised construction, the court should also direct an enquiry as to how the unauthorised construction came about and to bring the offenders to book. It is not enough to direct demolition of unauthorised construction, where there is clear defiance of law. In the present case, but for the observation of the High Court, we would certainly have directed an enquiry to be made as to how the project was conceived and how the agreement dated 4-11-1993 came to be executed."*

(emphasis supplied)

9. In *Dipak Kumar Mukherjee v. Kolkata Municipal Corpn., (2013) 5 SCC 336* it was held that:

"29. It must be remembered that while preparing master plans/zonal plans, the Planning Authority takes into consideration the prospectus of future development and accordingly provides for basic amenities like water and electricity lines, drainage, sewerage, etc. *Unauthorised construction of buildings not only destroys the concept of planned development which is beneficial to the public but also places unbearable burden on the basic amenities and facilities provided by the public authorities. At times, construction of such buildings becomes hazardous for the public and creates traffic congestion. Therefore, it is imperative for the public*

authorities concerned not only to demolish such construction but also impose adequate penalty on the wrongdoer."

(emphasis supplied)

10. Thus, there is an exigent demand to ensure that such incidents do not occur in the future. Even though various probes and inspections have been ordered by the State Government after the unfortunate fire at Levana Suites, and the Lucknow Development Authority and other State bodies are seen to be embarking upon sealing and demolition drives, it is often observed that such probes and drives end up losing steam as soon as such tragic incidents die down in the public memory. The public, as well as the authorities, seem to always forget that prevention is better than cure.

11. In an attempt to regulate and prevent such incidents in the future, and to ensure that we end up taking permanent lessons from this incident, we are taking suomoto cognizance of the various digital and print reports relating to the incident of fire at the Levana Suites Hotel, Madan Mohan Malviya Marg, Lucknow on the morning of 05.09.2022, along with the reports regarding the fire breakout at a coaching centre on Shah Najaf Road, Lucknow in the afternoon of 06.09.2022.

12. The Vice-Chairman of the Lucknow Development Authority is directed to be present before this Court on the next date of listing. He is further directed to file an affidavit detailing the number of establishments which are operating without proper building and fire permits in the city of Lucknow. It is specifically required to be brought on record as to how many commercial establishments are doing business without even a commercial map approval in their favour. He is also required to ascertain the cases in which such permits should not actually have been issued, and have been illegally obtained. Through the same affidavit, it may also be brought on record as to the steps being taken to curb this menace. In his affidavit he shall specifically states as to whether construction activities are being carried out as per approved land use; whether the

map is sanctioned in accordance with the rules/ regulation governing the field; whether construction has been raised in accordance with the sanctioned map; whether set off and open space has been left as per the rules and regulations and there is no unauthorised constructions; whether there is sufficient parking space in commercial complex; whether building completion certificate has been given by the Development Authority; whether the buildings in which commercial activity is being carried out have enough space for the movement of ambulance and fire brigade. The Vice Chairman shall also bring on record the action taken, if any, by the authority against the officials found guilty in such cases.

13. The Chief Fire Officer is directed to file his affidavit bringing on record the number of buildings, hospitals and commercial establishments which are operating without valid fire exits and equipments. It is also required that the affidavit clearly mention the number of NOCs which were found to have been wrongly given, in spite of the absence of proper adherence to the fire safety norms. He shall specifically state as to whether the NOC has been given as per sanctioned map.

14. We hereby direct the Public Interest Litigation Cell of this Court to register a suomoto Public Interest Litigation. The Senior Registrar of this Court at Lucknow is directed to place the same before the appropriate Bench. The PIL may be titled "In Re : Incidents of Fire at Levana Suites Hotel".

15. The news items referred above shall be kept on records of the proceedings. The State of Uttar Pradesh, through Additional Chief Secretary (Home), the Lucknow Development Authority, through its Vice-Chairman, shall be arrayed as opposite parties in the said Petition.

16. This Court requests Shri Jaideep Narain Mathur, learned Senior Advocate and Ms. Meha Rashmi, Advocate to assist this Court in the matter by acting as Amicus Curiae.

17. We further direct the Senior Registrar of this Court at Lucknow to obtain the addresses of The Times of India, The Indian Express, Hindustan Times, Amar Ujala, India TV, AajTak, NDTV and TV Today and Times Now from the Director, Information, U.P., Lucknow and communicate this order to them with the request to produce relevant material and content, on the basis of which they have reported the matter in the newspapers and the electronic media about the aforesaid incident, in a Compact Disc or Pen Drive, for the assistance of this Court.

18. List this case on 22.9.2022.

19. The Senior Registrar of this Court at Lucknow shall communicate this order to all concerned.

Order Date : 8.9.2022

Anupam

(Brij Raj Singh, J.) (Rakesh Srivastava, J.)