

**IN THE COURT OF SH. PITAMBER DUTT :**  
**ADDL. DISTRICT & SESSIONS JUDGE-CUM-PRESIDING OFFICER,**  
**APPELLATE TRIBUNAL, M.C.D., DELHI.**

**APPEAL NO. 378/ATMCD/2018**

- 1. Smt. Hukum Kaur**  
**R/o 1639, Gali No. 15,**  
**Govindpuri, New Delhi – 110019.**  
**Presently at:- House no. 323/1-A,**  
**Block-D, (Old no. 229/1-/A),**  
**Sangam Vihar, New Delhi – 110062.**
  
- 2. Sh. Laxman Singh @ Laxman Kumar Prajapati**  
**S/o Late Sh. Ganpat Ram**  
**R/o 1639, Gali No. 15,**  
**Govindpuri, New Delhi – 110019.**

**Through their Attorney**  
**Ms. Meera**  
**D/o Late Sh. Ganpat Ram,**  
**R/o 167, Prajapat Nagar,**  
**Gautam Nagar,**  
**New Delhi.**

..... Appellants

**Vs**

**South Delhi Municipal Corporation**  
**Chief Legal Officer,**  
**17<sup>th</sup> Floor, Civic Centre,**  
**Minto Road, New Delhi,**  
**(Through its Commissioner)**

..... Respondent

**Date of Filing of Appeal : 04.06.2018**  
**Date of Order : 19.04.2024**

**ORDER**

1. Vide this order, I shall decide the appeal filed against impugned demolition order dated 18.04.2018, passed with respect to property

bearing no. 323/1-A, Block-D, Old no. 229/1-A, Near Rehmat Masjid, Sangam Vihar, New Delhi for unauthorized construction in the shape of ground floor and first floor with projection on Municipal Land.

2. Sh. Humraj Bir Singh, Ld. counsel for appellants has contended that the show cause notice dated 03.04.2018 was received by appellants on 16.04.2018 and thereafter a representation was given to the concerned AE(B) on 17.04.2018 itself, vide which, appellants sought personal hearing before passing any order against their property, however, no personal hearing was afforded to appellants and the impugned demolition order has been passed in violation of the principle of natural justice. He prayed that appeal may be allowed and impugned demolition order may be set aside.

3. Sh. Mohit Sharma, Ld. counsel for the respondent has contended that property of appellants was booked for unauthorized construction, pursuant to which show cause notice was given, which was sent through speed post but as no reply was received within the stipulated time, demolition order was passed. He prayed that appeal may be dismissed.

4. I have heard Ld counsel for the appellant, Ld counsel for the respondent, perused the appeal, impugned order and record. A perusal of the above shows that property bearing no. 323/1-A, Block-D, Old no.

229/1-A, Near Rehmat Masjid, Sangam Vihar, New Delhi was booked for unauthorized construction in the shape of ground floor and first floor with projection on Municipal Land and a show cause notice dated 03.04.2018 was issued, which was sent through speed post but as no reply was received within the stipulated time, demolition order was passed.

5. The plea of appellants is that after receiving the show cause notice, they immediately sent a letter to the respondent on 17.04.2018, thereby asked for personal hearing before passing any order against their property. The appellants have placed on record copy of the said letter along with their appeal.

6. This Tribunal, vide order dated 29.11.2022, directed the respondent to verify whether the said letter was received by them or not? Pursuant to the said order, the respondent filed a status report on 22.02.2023, stating in it that as per the record, the said reply was received in the office of the respondent on 17.04.2018. However, same was put before the Quasi Judicial Authority on 27.04.2018.

7. The appellants after receiving the show cause notice on 16.04.2018, submitted a letter in the office of the respondent on 17.04.2018, which was received on the very same date i.e. before passing of the demolition order dated 18.04.2018. Despite the same, no personal

hearing was given to appellants and the Quasi Judicial Authority proceeded to pass the demolition order dated 18.04.2018, stating in it that no reply was received.

8. The Quasi Judicial Authority was within its right to pass an order under Section 343 of the DMC Act, if there exist any unauthorized construction in the property in question. However, before passing any such order, the aggrieved person was required to be heard and only thereafter any such order could have been passed.
9. In the instant case, the appellants, soon after receiving the show cause notice, wrote a letter to the respondent, thereby asked for personal hearing before passing any order. The said letter was received by the Quasi Judicial Authority before passing the demolition order, however, the Quasi Judicial Authority had not considered the said request nor granted any personal hearing to the appellants and passed the demolition order dated 18.04.2018.
10. The right to be heard is one of the fundamental principles of natural justice, which is to be followed by all the Administrative Authorities and Quasi Judicial Authorities. The fundamental principle of natural justice is that the person against whom an order is passed must know as to why and on what basis said order has been passed. The order

must be a speaking one, giving reasons for reaching to the conclusion and must not be cryptic in nature.

11. The Hon'ble Delhi High Court in case titled *Jaspal Singh Jolly Vs Municipal Corporation of Delhi, reported as 125 (2005) DLT 592* has dealt with said issue, which is reproduced herein below:-

*“Noting the decision of the Supreme Court as Erusia Equipments & Chemical Ltd. Vs State of West Bengal, (1975) 1 SCC 70: AIR 1975 SC 266 (at P. 269); 106 (2003) DLT 573, Mekaster Trading Corporation Vs Union of India; and (1990) 4 SCC 594, S.N. Mukherjee Vs Union of India, I had held that the aforesaid decision established the legal proposition that orders which are subject to judicial review must be in compliance with the principle of natural justice, namely (a) proper hearing, (b) decision by an unbiased mind; (c) taking into consideration all the relevant factors and excluding the irrelevant factors; and (d) reasons to be recorded.*

*Needless to state, reasons enable the superior Court to effectively exercise supervisory jurisdiction. Additionally, when reasons are stated, the persons affected knows the mind against him. A decision*

*may be right, but not sound.  
Such a decision leaves a  
grievance in the mind of the  
person affected that he was  
not told why the decision  
was taken.”*

12. The impugned demolition order dated 18.04.2018, passed by the Quasi Judicial Authority is thus not sustainable in law as same has been passed without affording an opportunity of being heard to appellant, therefore, same is in violation of the principle of natural justice.
13. In view of the above facts and circumstances, the appeal filed by appellants is allowed. The impugned demolition order dated 18.04.2018 is set aside. The matter is remanded back to the Quasi-Judicial Authority for deciding the same afresh.
14. The appellant shall appear before the Quasi Judicial Authority on **29.04.2024 at 02.00 PM**. The Quasi Judicial Authority shall allow appellants to submit their reply and also grant them personal hearing.
15. The Quasi-Judicial Authority thereafter shall pass a speaking order after dealing with all the submissions, pleas and defences raised by appellants and shall communicate the said order to appellants. All the

proceedings shall be completed by the Quasi Judicial Authority within a period of 2 months from the date of hearing.

16. The appellants shall not raise any unauthorized construction in the property in question.

17. The record of the respondent be send back alongwith copy of this order. Appeal file be consigned to record room after due compliance.

**Announced in the open Court  
Today i.e. on 19.04.2024**

**(PITAMBER DUTT)  
AD&SJ-cum-P.O.  
Appellate Tribunal : MCD Delhi**