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

% Judgment delivered on: 18th May, 2021

+ **W.P.(C) 3754/2021**

DHIRENDER KUMAR SINGH

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Ashish Deep Verma, Advocate

For the Respondent: Mr. Kunal Vajani, Standing Counsel with Mr. Varun Ahuja
and Ms. Madhulika Bohra, Advocates for SDMC

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

CM APPLN. 11316/2021 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 3754/2021

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 04.03.2021 whereby the representation of the petitioner has been dismissed and the petitioner has been directed to remit an amount of Rs. 57,59,529/- towards the arrears of monthly licence fee plus admissible interest of Rs.

25,33,732/-.

3. Issue Notice. Notice is accepted by learned counsel for the Respondent. With the consent of the parties the petition is taken up for final disposal.

4. Petitioner was allotted a parking site with effect from 02.03.2017 at a monthly licence fee of Rs. 12,76,999/-.

5. Petitioner made a representation that on account of 50-60% of the parking site not been in operation due to Tehbazari and installation of benches in the parking area by SDMC, the parking fee be reduced.

6. An inspection was carried by the Officers of the respondent-Corporation and they found that the area affected by Tehbazari and installation of benches was 1540 sq. mtrs out of total area 5329 sq. and accordingly competent authority decided to reduce the monthly licence fee from Rs. 12,76,999/- to Rs. 9,14,440/- per month with immediate effect.

7. Consequent to the decision of the competent authority, excess security deposit calculated @ Rs. 12,76,999/- was directed to be adjusted towards arrears of licence fee.

8. Petitioner gave a representation on 24.08.2020 seeking a further adjustment by adjusting the excess differential paid by the petitioner for the period from 22.03.2017 till 12.12.2017.

9. This request was not considered. Accordingly, petitioner filed W.P. (C) 6180/2020 before this Court.

10. This Court by order dated 05.10.2020 directed the petition to be treated as a representation and after giving an opportunity of hearing to be disposed of.

11. Subject impugned order has been passed consequent to the directions issued in the said writ petition on 05.10.2020.

12. Perusal of the representation given by the petitioner shows that the petitioner's grievance is with regard to non-adjustment of the alleged excess amount paid for the period between when the parking site was allotted to the petitioner and till the time decision was taken by the competent authority and communicated to the petitioner on 12.12.2017.

13. Learned counsel for the respondent submits that the decision of the competent authority was prospective and not retrospective as is evident from letter dated 12.12.2017. He further submits that the petitioner had, without any demur, paid the monthly licence fee till the decision was taken. He accordingly submits that the petitioner is not entitled to any adjustment of the said amount. He further submits that the petitioner defaulted in making the payment after the amount was reduced. He further submits that first time a representation was received on 24.08.2020 seeking an adjustment of the amount paid by him for the earlier period.

14. This is disputed by learned counsel for the petitioner.

15. Be that as it may, perusal of the impugned order shows that all the submissions made by the learned counsel for the respondent justifying the impugned order do not find a mention in the impugned order.

16. It is a settled position of law that an administrative order has to speak for itself and cannot be supplemented by fresh reasons in the shape of an affidavit or otherwise. The reasons have to be contained in the order itself.¹

17. Clearly impugned order not only does not contain any reason for rejecting the representation of the Petitioner but does not even refer to the deal with the contentions raised by the petitioner in his representation and accordingly on this ground alone cannot be sustained.

18. The matter is accordingly remitted to the respondent to decide the representation of the petitioner afresh after giving an opportunity of a hearing to the petitioner. The Respondent may give a virtual hearing to the Petitioner.

19. The respondent shall dispose of the representation of the petitioner afresh without being influenced by anything stated in this order. All rights and contentions of the parties are reserved.

¹ *63 Moons Technologies Limited Versus Union of India & Others (2019) 18 SCC 401*

20. The petition is accordingly allowed in the above terms.

21. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

MAY 18, 2021
'rs'

SANJEEV SACHDEVA, J



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