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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 3497/2023 and CM APPLs. 13536/2023 & 14392/2023**  
**BHAGWAN SINGH** ..... Petitioner

Through: Dr. Menaka Guruswamy, Sr. Advocate with Mr. Sanjay Vashishta, Mr. Vishal Kumar, Mr. Utkarsh Pratap, Mr. Larkesh Bhambhani & Ms. Mukta Halbe, Advocates. (M:8511601438)

versus

**GOVERNMENT OF NCT OF DELHI** ..... Respondent

Through: Mr. Sudhir Nandrajog, Sr. Advocate with Mr. Sameer Vashisht, ASC, Civil with Mr. Rishikesh Kumar, Muhammad Zaid, Ms. Sheenu Priya, Mr. Mohit Siwach, & Mr. Parth Vibhu, Advocates. (M:9643797717)

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**

**ORDER**  
% **23.03.2023**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by Mr. Bhagwan Singh, the Municipal Secretary of the Municipal Corporation of Delhi (MCD) seeking quashing of the notice dated 17<sup>th</sup> March, 2023 and restraining the proceeding before the Committee of Privileges of the Delhi Legislative Assembly. By the impugned notice, the Petitioner was asked to appear before the Committee of Privileges on 20<sup>th</sup> March, 2023 at 6:00 p.m.
3. The brief background of the matter is that as per Section 3(3)(b)(i) of the Delhi Municipal Corporation Act, 1957 (*hereinafter* 'DMC Act'), ten persons are to be nominated by the Lieutenant Governor to the

MCD. Certain issues were raised pertaining to the said nominations by the Committee on Petitions of the Delhi Legislative Assembly. The said Committee vide notice dated 16<sup>th</sup> February, 2023 directed the Commissioner of the MCD to file a reply along with supporting documents. It is the case of the Petitioner that the Committee on Petitions issued a notice to the Commissioner, MCD to appear before it on 7<sup>th</sup> March, 2023. The allegation of the Respondent is that on the said date the Petitioner deliberately neither appeared before the Committee nor submitted the records sought.

4. Notice dated 7<sup>th</sup> March, 2023 was again issued on 9<sup>th</sup> March, 2023 for the appearance of the following persons:

*“Copy for compliance with the request to attend the Sitting as per schedule:*

*1. Secretary, Department of Urban Development, GNCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi.*

*2. Commissioner, Municipal Corporation of Delhi, Shayma Prashad Mukherjee Marg, Civic Centre, New Delhi with request to attend the Sitting with Shri Sunil Bhadu, Addl. Commissioner and Shri Bhagwaan Das, Municipal Secretary alongwith the relevant original/shadow files.”*

5. On the said date the Commissioner, MCD along with two Additional Commissioners and the Secretary, Urban Development appeared before the Committee on Petitions and submitted shadow files of all the records. The Petitioner is stated to be on medical leave on the said date. Thereafter, on 16<sup>th</sup> March, 2023, another notice of appearance was issued by the Committee on Petitions calling upon the Petitioner to attend the hearing along with the relevant original/shadow files. As per the petition, the

Petitioner attended the hearing and apprised the Committee that the original records are either with the Office of the L.G. or with the Delhi Government.

6. The Committee on Petitions on 16<sup>th</sup> March, 2023 wrote a letter to the Hon'ble Speaker of Delhi Legislative Assembly raising grievances against the conduct of the Petitioner, Municipal Secretary. The Committee of Privileges then issued the notice dated 17<sup>th</sup> March, 2023 which is the impugned notice before this Court.

7. Upon urgent mentioning before Hon'ble the Chief Justice, the matter was listed before this Court on 20<sup>th</sup> March, 2023. On the said date, upon being informed that the hearing before the Committee has been postponed at the request of the Petitioner, the Court passed the following order:

*5. Ms. Guruswamy, ld. Sr. counsel appearing for the Petitioner submits that the Petitioner apprehends that the Committee of Privileges is likely to take coercive action against the Petitioner and hence he was constrained to urgently move the present writ petition.*

*6. Mr. Nandrajog, ld. Sr. counsel for the Respondent submits that the sitting of the Committee of Privileges which was fixed for today at 6:00 p.m. has been postponed at the request of the Petitioner to 29<sup>th</sup> March, 2023 at 3:00 p.m. **He further submits that the apprehension of coercive steps is ill-founded as at best the Committee can submit a report to the Speaker, only after which any action can be taken against the Petitioner.***

*7. In view of the submissions made by ld. Sr. Counsel for the Respondent, the apprehension of the Petitioner is clearly assuaged and no interim order would be required to be passed.*

8. Today, Dr. Menaka Guruswamy, ld. Sr. Counsel appearing on behalf of the Petitioner has taken the Court through Section 3(3)(b)(i) of the DMC

Act to argue that ten persons are nominated by the Administrator, which as per Section 2(1) DMC Act is the Lieutenant Governor of the National Capital Territory of Delhi. Thus, there is no irregularity in the appointment of the nominated persons who are also loosely referred to as 'Alderman'.

9. On a query from the Court, Id. Sr. Counsel, Mr. Sudhir Nandrajog, appearing for the Respondent, submits that the question as to whether the Lieutenant Governor can nominate such Alderman on his own or on the aid and advise of Council of Ministers of the Government of NCT of Delhi is pending before the Hon'ble Supreme Court and the said matter is listed on 24<sup>th</sup> March, 2023. Moreover, it is his submission the hearing which was scheduled before the Committee of Privileges on 20<sup>th</sup> March, 2023 at 6:00 p.m. has been adjourned to 29<sup>th</sup> March, 2023 on the request of the Petitioner due to his medical condition.

10. The Respondent has also filed an application challenging the maintainability of the present petition itself. In the application, various legal questions have been raised, including as to whether any writ petition can be entertained in respect of proceedings before the Committee of Privileges.

11. The position that emerges after hearing Id. Sr. Counsels is that the hearing before the Committee of Privileges is now fixed on the 29<sup>th</sup> March, 2023.

12. Considering the issues raised, issue notice in the writ petition as also in the application filed by the Respondent.

13. Let the replies be filed by both the parties within a period of two weeks. Rejoinder, thereto, be filed within two weeks thereafter.

14. In the meantime, the Petitioner shall appear before the Committee of Privileges, however, no coercive steps shall be taken against the Petitioner, till the next date of hearing.

15. List on 3<sup>rd</sup> May, 2023.

**PRATHIBA M. SINGH, J.**

**MARCH 23, 2023**

*dj/sk*