

PUBLIC GRIEVANCES COMMISSION
GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI

Order under Para 2(B) of the PGC Resolution No F.4/14/94-AR dated 25.9.97

Dated of hearing: 25.4.2018

Complainant	:	Sh. Surender Singh Yadav
Respondent	:	Chief Executive Officer Delhi Jal Board, Govt. of NCT of Delhi Varunalaya Phase-II Karol Bagh, New Delhi.
Grievance No	:	PGC/2016/DJB/135
Grievance filed on	:	15.9.2016
First hearing in the PGC	:	3.11.2016
Scheduled on	:	

1. Brief facts of the complaint

Sh. Surender Singh Yadav filed a complaint in PGC on 15/9/2016 regarding illegal installation of tube-well/submersible in rasta of Village Kapashera by one Sh. Pawan Kumar resident of Khasra No. 736, 742, VPO Kapasherea, New Delhi.

2. Proceedings in the Public Grievance Commission

The PGC convened its first hearing on 3rd Nov. 2016, 31.1.2017, 11.4.2017, 6.6.2017, 12.9.2017, 4.10.2017, 27.12.2017, 7.3.2018, 27.3.2018 and latest on 24.4.2018 and the following were present:

Complainant	:	Present
Respondent	:	Sh.Kaushal Rajput,Vig. Sh.Rakesh Ruhel,DJB Subeer Ojaswi, SHO PS Kapashera

An ATR has been filed by SHO, PS Kapashera Delhi stating therein that:-

“During inquiry it found that in the year 2016 illegal bore-well has been sealed

by DJB and Division and beat staff are being visit daily basis in area of Kapashera. No illegal bore-well/submersible is exist at H. No. 742,VPO Kapashera, Delhi.

It is further submitted that as per directions of Hon'ble PGC legal opinion has been taken from Ld. Chief Prosecutor, Dwarka Courts, New Delhi on the subject matter. As per legal opinion "the environment (Protection) Act , 1986 provides for power to give directions with regard to stoppage or relation of the supply of electricity, water or any other service u/s 5 and section 15 of the Act provides for penalty for contravention of the provisions of the Act and the rules, orders and directions. The section 15 of Environment (Protection) Act provides for imprisonment for a term which may extend to 5 years or with fine which may extend to Rs. 1,00,000/- or with both and as per schedule II of classification of offences of Cr. PC the offence u/s 15 of Environment (Protection) Act is cognizable and Non-bail able offence". It has further mentioned that as far as the registration of a case under IPC with regard to illegal boring/bore-well is concerned, at the most it can be registered for the offence u/s 379 IPC for stealing of water and the punishment u/s 379 is maximum for three years. So, the provisions of section 15 of Environment (Protection) Act are more stringent then section 379 IPC. Even otherwise, Environment (Protection) Act is a special law and as per the provisions of Cr. PC and IPC, the special law will prevail.

In view of above facts and circumstance, local police has already been taken legal action u/s 5/15 Environment (Protection) Act as and when any complaint come to notice regarding illegal bore-well. During year 20178 and 2018 (till date) total 15 cases. Kalandara has been registered in PS Kapashera u/s 5/15 EP Act."

Sh. Subeer Ojaswi, SHO, PS Kapashera is personally present along with ATR. He has explained the reason why action under Environment Protection Act has been preferred by him instead of using the Sections of IPC. He stated that disposal of the case is done by the SDM, punishment could go up to 5 years imprisonment and fine also could go up to Rs. one lakh and not below Rs. 50,000/-. The Commission finds a reasonable reason why SHO has preferred this action. Since the matter ends up with SDM the disposal rate aof hearing will be faster. In the recent past SHO and SDM

together have acted against quite many illegal bore-wells and a fine of not less than 50 thousand was imposed by SDM on the owners of the bore-wells and Companies which executed the boring works. The machinery was also impounded. Following the IPC route in Courts would have been a laborious procedure.

The intention of the Commission is basically to get the machinery impounded and action taken promptly against the owners as well as the machinery owners. So this objective is achieved effectively through the Kalandara filed by the SHO. However, the primary objective of PGC is to ensure that exemplary action taken is adequately publicized to deter other prospective offenders for committing such acts elsewhere in Delhi which are rampantly prevailing.

The Commission therefore advises the SHO PS Kapashera to ensure that proper publicity is given through PRO of Delhi Police so that action under Environment Protection Act comes to the notice of everyone and the machinery owners are deterred from indulging in such activities elsewhere. The publicity can be in the form of press release along with certain photographs of machinery attached etc..

The result of publicity should inspire and motivate all SHOs and all SDMs to act on same lines so that such illegal activities would stop completely.

3 Directions of the PGC

- a) Sh. Milind Mahadeo Dumbere, DCP (South-West District), is advised to prepare proper publicity material and incorporate the photographs of the attached machinery etc. and ensure that coverage is given in all the media.**
- b) DOV is advised to continue the inquiry against the previous SDM till the end.**
- c) Credit should be given to Ms. Bhanu Prabha SDM (South-West) GNCT of Delhi and Sh. Subeer Ojaswi, SHO, PS Kapashera, for their**

commendable work in putting an end to this menace and appreciation of the Commission in respect of both these officers should be placed on record by the respective senior officers.

With the above advice, the Commission has decided to close the case.

**(N. DILIP KUMAR)
MEMBER (PGC)**

Copy to:

- 1 Commissioner, SDMC, Dr. Shyama Prasad Mukherjee Civic Centre, Jawahar Lal Nehru Road, New Delhi – 110 002.**
- 2 District Magistrate (South- West), Revenue Department, Govt. of NCT of Delhi, Old Terminal Tax Building, Kapashera, New Delhi-110 037.
- 3 Sh. Milind Mahadeo Dumbere DCP, South-West District, P.S. Vasant Vihar, New Delhi-110 075
- 4 Director of Vigilance, Vigilance Deptt., GNCT of Delhi, 3rd Level, Delhi Sachivalya, I.P.Estate, New Delhi.
- 5 Sh. Harminder Pal Singh Saran, Chief Vigilance Officer, Delhi Jal Board, Govt. of NCT of Delhi, Varunalaya Phase-II, Jhandewalan, Karol Bagh, New Delhi.
- 6 Director (F&A)/Nodal Officer (PGC), Delhi Jal Board, Govt. of NCT of Delhi, Varunalaya Phase-II, Jhandewalan, Karol Bagh, New Delhi.**
- 7 The Director of Enforcement Delhi Jal Board, Govt. of NCT of Delhi, Varunalaya Phase-II, Jhandewalan, Karol Bagh, New Delhi
- 8 The Chief Executive Officer, Delhi Jal Board, Govt. of NCT of Delhi, Varunalaya Phase-II, Jhandewalan, Karol Bagh, New Delhi.**
- 9 The SE (SW-)-II, DJB, near Dwarka, WTP, Dwarka, New Delhi.**
- 10 The Executive Engineer (EMS), Najafgarh Zone, SDMC, Room No. 301-302, 3rd floor Zonal Building, Dhansa Stand Najafgarh, New Delhi.
- 11 Sh. Bishamber Nath, Asstt. Director (Vig.), Directorate of Vigilance, GNCT of Delhi, Level-4, C-Wing, Delhi Secretariat, I.P.Estate, New Delhi.

12 Sh. Subeer Ojaswai SHO, Police Station Kapashera, New Delhi.

13 Sh. Surender Singh Yadav

14 PS to Member