

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

**APPEAL NO. 393/ATMCD/2024**

**Sh. Neelam Singh Chauhan  
Proprietor of M/s Durga Trading Company  
S/o Sh. Amar Singh Chauhan  
R/o 10/10, Under Hill Lane,  
Civil Lines, Delhi – 110054.**

**.....Appellant**

**Vs**

**Municipal Corporation of Delhi  
(Through its Commissioner)  
Civic Centre, Minto Road,  
S.P.M. Mukherjee Marg,  
New Delhi – 110002**

**.....Respondent**

**Date of Filing of Appeal           :     29.05.2024**  
**Date of Order                           :     05.06.2024**

**ORDER**

1.           Vide this order, I shall decide the appeal filed against impugned sealing order dated 01.05.2024, passed with respect to Farm no. 2, 12 Petals, Samalkha, Revenue Estate, Rajokari to Kapashera Road, New Delhi – 110097.
  
2.           Sh. Shubham Kumar, Ld. counsel for the appellant has contended that appellant was served with a show cause notice under Section 345A of the DMC Act dated 24.04.2024, which was received by

him on 26.04.2024 and reply to the same was filed by the appellant in the office of the Deputy Commissioner on 30.04.2024. He further contended that despite receiving the reply, the Quasi Judicial Authority did not mention a word with regard to the said reply and passed the impugned sealing order in violation of the principle of natural justice. He further contended that appellant was also not granted any hearing prior to passing of the sealing order. He prayed that appeal may be allowed and due hearing may be granted to the appellant in this regard.

3. Sh. Ashutosh Gupta, Ld. counsel for the respondent has contended that earlier, a demolition order was passed against the property of the appellant, which was challenged and appeal of which has already been dismissed as withdrawn by the appellant. He further contended that the show cause notice was duly served upon the appellant but appellant failed to file any reply within the stipulated time, that is why the sealing order was passed and the property was sealed. He prayed that appeal may be dismissed.

4. I have heard Ld counsel for the appellant, Ld. counsel for the respondent and perused the appeal, impugned order and record. Perusal of the above shows that the property in question was booked for unauthorized construction and show cause notice dated

24.04.2024 was issued and thereafter sealing order dated 01.05.2024 was passed.

5. The property of the appellant was booked and show cause notice dated 24.04.2024 was issued in the name of owner(s) / builder(s), which was served as per the photograph through pasting.

6. The appellant submitted reply to the said show cause notice, which was received in the office of the Deputy Commissioner on 30.04.2024. The sealing order was passed on 01.05.2024. However, surprisingly, there is no mention in the sealing order either of issuance of show cause notice or receipt of any reply of the appellant. The impugned sealing order has thus been passed without considering the reply submitted by the appellant.

7. Ld. counsel for the respondent submits that the reply was filed by the appellant after expiry of the statutory period, that is why same was not considered.

8. The said contention of Ld. counsel of appellant is not sustainable. The respondent has not adduced any proof to show, how and when the show cause notice was served. The appellant, however himself has mentioned in his reply that the show cause notice was received by him on 26.04.2024.

9. Vide show cause notice dated 24.04.2024, the appellant was granted 3 day's time to file reply, i.e. by 29.04.2024. The reply was submitted in the office of the Deputy Commissioner on 30.04.2024 i.e. the very next day of expiry of three days.
10. The impugned sealing order has been passed on 01.05.2024. On the day when the sealing order was passed, the reply was already there in the office of the Deputy Commissioner.
11. The Quasi Judicial Authority however, did not bother to mention a word in the sealing order, whether any show cause notice was issued or served upon the appellant or not? Or that whether any reply pursuant to said show cause notice was received or not?
12. Once the reply was received in the office of the Deputy Commissioner before passing of the sealing order, it was incumbent upon the Quasi Judicial Authority to consider the said reply and pass the sealing order.
13. 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.

14. 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.”*

15. The impugned sealing order dated 01.05.2024 passed by the Quasi-Judicial Authority is thus not sustainable in law, as same has been passed in violation of principal of natural justice.
16. In view of the above facts and circumstances, the appeal filed by the appellant is allowed. The impugned sealing order dated 01.05.2024 is set aside. The matter is remanded back to the Quasi-Judicial Authority for deciding the same afresh.
17. The appellant shall appear before the Quasi Judicial Authority on **12.06.2024 at 03.00 PM**. The Quasi Judicial Authority shall provide an opportunity to the appellant to submit an additional reply, if any and also grant him personal hearing and thereafter shall pass a speaking order after dealing with all the submissions, pleas and defence raised by the appellant and shall communicate the said order to appellant. All the proceedings shall be completed by the Quasi Judicial Authority within a period of 1 month from the date of commencement of hearing.

18. The Record of the respondent be returned back along with copy of this order and appeal file be consigned to Record Room after due compliance.

**Announced in the open Court,  
Today i.e. on 05.06.2024**

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