

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

**APPEAL NO.981/ATMCD/2024**

**Kamal Singh,**  
S-28A, School Block,  
Shakarpur, Delhi-10092.

**Appellant**

**Vs**

**East Delhi Municipal Corporation,**  
Plot No. 419, F.I.E., Udyog Sadan,  
Patparganj Industrial Area, Delhi-110092.

**Respondent**

**Date of Filing of Appeal : 09.11.2017.**  
**Date of Order : 03.09.2024.**

**ORDER**

1. The present appeal was filed impugning the vacation order dated 27.10.2017. Thereafter, the application under Order VI Rule 17 CPC was allowed vide order dated 26.08.2019 and in this appeal the appellant has impugned the sealing order dated 29.05.2017 in respect of the property No. S-28/A (4<sup>th</sup> floor / Top floor), School Block, Shakarpur, Delhi-110092.
2. It is stated in the appeal that appellant is the owner of property in question and nature of construction is old. It is stated that the respondent has sealed the property without serving any show cause notice or sealing order upon the appellant.
3. During the course of proceedings status report dated 02.09.2024 has been filed by the respondent department wherein it is admitted that sealing order dated 24.05.2017 was not served upon the appellant. The relevant para is reproduced:

“That, as per available record, the sealing order dated 24.05.2017 in respect of subjected property was not served upon the appellant.”

4. Appellant has also filed an affidavit on record stating that he has not received the sealing order dated 24.05.2017.
5. The respondent department has also placed on record the record pertaining to the sealing. The show cause notice is stated to be served upon the appellant through speed post but no tracking report is placed on record showing the service of the same on the appellant. No postal receipt is available on record showing communication of sealing order to appellant. Neither sealing order has been affixed on the property in question.
6. In view of the record as well as the status report dated 02.09.2024, it is clear sealing order was not served upon the appellant.
7. The cardinal principal of natural justice is that no one can be condemned without an opportunity of being heard. The Quasi-Judicial Authority was bound to conduct its proceedings in accordance with the principal of natural justice. The justice should not only be done but the same should also appear to have been done.
8. The Hon'ble High Court in **J.T. India Experts Vs UOI and Another 94 (2001) DLT 301 (FB)** has held as under: -

“5. The adherence to principle of natural justice as recognised by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties. These principles are well-settled. The first and foremost principle is what is commonly known as *audi alteram partem* rule. It says that none should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should appraise the party determinatively the case he has to meet. Time, given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed against the person in absentia becomes wholly vitiated. Thus it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play.

6. Principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial quasi-judicial authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.”

9. The order of sealing dated 29.05.2017 passed by the Quasi Judicial Authority regarding unauthorized construction in property bearing no. S-28/A, (4<sup>th</sup> Floor / Top Floor), School Block, Shakarpur, Delhi-110092, passed in violation of principle of natural justice and is set aside. The appeal is allowed.
10. Respondent department is directed to desal the property in question within a period of 07 days from today.
11. It is clarified that the observations made while passing of this order by this Court shall not tantamount to the expression on the merits of appeal in respect of demolition.

The record of respondent be sent back along with copy of this order. Appeal file be consigned to record room after due compliance.

**Announced in the open Court  
Today i.e. on 03.09.2024.**

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