



## **DECISION**

<b>Complaint No.</b>	:	POS/479/KHE/19/Adv-Z
<b>Name and address of the complainant</b>	:	Mr. Faheemuddin, House # 9, Street # 19, Sector 'E', Manzoor Colony, Mehmoodabad, Karachi
<b>Name of the Agency Complained against</b>	:	Sindh Building Control Authority (SBCA)
<b>Name &amp; Designation of Investigating Officer</b>	:	Fasihuddin Khan, Advisor 'Z'
<b>Vetted by</b>	:	--
<b>Subject</b>	:	<u>ALLEGED ILLEGAL CONSTRUCTION RAISED BY THE OWNER OF PLOT NO.10, STREET-19, SECTOR-E, MANZOOR COLONY, MEHMOODABAD IN VIOLATION OF BUILDING BYE-LAWS</u>

### **THE COMPLAINT**

Mr. Faheemuddin filed his complaint on 22.10.2019 against Sindh Building Control Authority (SBCA), Karachi regarding illegal construction being raised by his neighbour Hafiz Irfan Saeed on plot No.10, Street-19, Sector-E, Manzoor Colony, Mehmoodabad, Karachi in violation of building bye-laws. Due to this illegal construction a wall of the building fell on the mother of the complainant on 28.08.2019 and resultantly she expired on 15.09.2019. Sister of the complainant also became incapacitated permanently. The FIR # 244/2019 dated 28.08.2019 of the incident was lodged at Thana Baloch Colony. According to him, construction beyond ground plus one storey is not permissible in Manzoor Colony but his neighbour has illegally constructed three storey building and started raising 4<sup>th</sup> storey without NOC of the SBCA. He, therefore, solicited our intervention for redressal of his grievances.

### **PROCEEDINGS**

2. The complaint was admitted u/s 10 of the of the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991, (amended up to date) after receiving mandatory Affidavit on Form 'A'. Then the matter was referred to the DG, SBCA for report vide this office letter dated 17.02.2020 followed by reminders. But neither any report was received

from the SBCA nor its officers attended the hearings fixed by the Investigating Officer on various dates.

3. In the meantime, the complainant submitted an application on 15.06.2022 stating therein that he has settled his differences with neighbour Hafiz Saeed and his case may be closed. In support of his statement he also furnished a copy of agreement between the parties according to which the complainant received Rs.1,600,000/- from his neighbour with the assurance that applications submitted to SBCA and this Institution would be withdrawn and he will be allowed to continue the said construction.

Since such private settlement between two parties couldn't legalize any unlawful action of anyone, giving the said defaulter freedom to go ahead with illegal activity in complete disregard of the law of land, it was decided in the public interest to continue proceeding in the matter u/s 9(1) of the Act 1991 which empowers the Ombudsman to undertake investigation on his own motion.

4. Therefore, DG, SBCA was advised to look into the matter personally and stop forthwith the alleged illegal construction raised by Mr. Irfan Saeed on the said plot vide letter dated 18.08.2022 followed by three reminders.

Subsequently the Agency submitted vide letter dated 22.12.2022 that the said building exists at site with illegal silent commercial activity comprising of G+2 upper floors plus pent house but its approval record is not traceable. In this regard, the ejection notice u/s 7-A of SBCO-1979-82 has been issued on 22.12.2022. Moreover, the letters to all utility agencies have been written with the request to disconnect the utility services of the said building and also a letter to sub-Registrar, Katchi Abadi (KMC) has been issued with the request to take necessary action at his end.

5. Accordingly, the DG, SBCA was directed vide this office letter dated 09.01.2023 to proceed against Mr. Irfan Saeed to stop his illegal activities as per law and keep us apprised of implementation status on fortnightly basis.

After constant follow up, the agency informed vide letter dated 15.11.2023 that demolition/sealing action against the said building has been scheduled on 21.11.2023 and letter to the Deputy Commissioner, District East was written with the request to provide requisite support of the Assistant Commissioner concerned as well as security cover on scheduled date. A letter was also issued to the SSP, District East, Karachi, with the request to provide proper security cover to maintain law & order situation during eviction and demolition action on scheduled date and time. However, as reported by the Agency on 20.12.2023 that on the scheduled date of action, the officials of the SBCA alongwith demolition squad reached at site, where it was observed that neither the utility services were disconnected by the respective agencies nor the eviction of occupants had taken place by the District Administration. As such, because of non-cooperation from the District Administration, the law enforcement agencies and utility agencies, the scheduled action could not be initiated at the subject building. The agency also requested for allowing sufficient time to them for rescheduling the demolition action. But despite lapse of considerable time and another attempt by the agency on 04.07.2024, it miserably failed.

#### FINDINGS

6. (i) The complainant submitted an application against his neighbour for raising an illegal construction but later on compounded with him privately and withdrew his complaint.
- (ii) Since four storey building was illegally constructed at site without any permission or NOC from the SBCA Suo Moto proceedings u/s 9(1) of the Act 1991 were initiated in public interest against the violator Mr. Irfan Saeed.
- (iii) The vital point to be noted is that the illegal activity as pointed out above had not come up overnight but obviously became possible due to gross negligence and connivance of the Agency. The SBCA has miserably failed to protect the public interest in the matter and establish the writ of law by demolishing the said illegal construction.
- (iv) Maladministration is established on the part of the SBCA.

(4)

DECISION

7. In view of the above and in exercise of Powers vested in me u/s 11 of the Establishment of the Office of Ombudsman for the Province of Sindh (amendment act – 2020), I hereby direct the Director General, Sindh Building Control Authority (SBCA) to demolish the said illegal building and submit compliance report to me inside 45 days.

**Given under my hand and seal of office.**

