

# Sunayana Sibal & Ors vs Government Of Nct Of Delhi And Ors on 9 August, 2024

**Author: Manmeet Pritam Singh Arora**

**Bench: Manmeet Pritam Singh Arora**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 13236/2022

SUNAYANA SIBAL & ORS. . .

Through: Mr.Vivek Sibal, Sr.  
Ms.Smriti Sinha, M  
Ms.Shaalini Agrawa  
Pandey and Ms.Sara  
Advocates.

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GOVERNMENT OF NCT OF DELHI AND ORS. ....

Through: Mr.Nipun Katyal, Ad  
Mr.Suryapratap  
Advocates for GNCTD  
Mr.Kirtiman Singh,  
Mr.Waize Ali Noor,  
Khatana, Mr.Var  
Mr.Ranjeev Khat  
Baijal, Mr.Maulik K  
Mr.Varun P.Singh, A  
UOI.  
Ms.Beenashaw N.Soni  
Ms.Ann Joseph and M  
Advocates for DDA.  
Mr.Biraja Mahapatra  
Mr.Nalin Hingorani  
Sharma, Advocates f  
Mr.Parvinder Chauha  
with Ms.Aakriti Gar  
DUSIB.  
Ms.Gauri Puri, Loca

W.P.(C) 13236/2022

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by s  
The Order is downloaded from the DHC Server on 13/08/2024 at 03:05:36

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

OR

% 09.08.2024 CM APPLs.45673/2024 and 45675/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Accordingly, the applications stand disposed of.

CM APPL.45674/2024 (Impleadment)

3. Present application has been filed by Bhalaswa Dairy Residential Colony Committee through Mr. Jagdish Rathi.
4. The application contains references to Madanpur Khadar, however, the same are being ignored since the present application is not on behalf of the dairy owners of Madanpur Khadar and the said error is being read as Bhalaswa.
5. It is stated that the Applicant is an association working for the development of the residents of Bhalaswa Dairy Colony. It is stated that the This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 13/08/2024 at 03:05:36 Applicant represents dairy licence holders<sup>1</sup> from Bhalaswa Dairy Colony and have filed this application for impleadment feeling aggrieved by the direction of demolition/sealing passed by the competent statutory authorities in pursuance of the order dated 19th July, 2024 passed by this Court.

6. It is stated that the members of the Applicants hold approximately 125 licences and manage around 2,500 buffaloes and cows whose milk is sold to local residents. It is stated that for each group of 10 buffaloes, the dairy owner engages 8-11 persons/workers for looking after the cattle. It is stated that the dairy owners use the dairy plot for the residence of the workers and self with the

family as they have no alternative housing. It is stated that the first floor of the structure is used for the residence of the workers employed by the dairy owner.

7. It is stated that the issue in the present public interest litigation (PIL) is with respect to prevention of animal cruelty and mistreatment of cattle in dairies. It is stated that the issue of sealing or demolition of dairy licence holders' residences is not the remit of the petition.

8. It is stated that dairy licence holders have not been made a party to this petition. It is stated that it is the residences of the dairy licence holders which are being affected by the order dated 19th July, 2024. It is stated that the persons represented by the Applicant herein are all cattle owners. It is stated that the said persons are members of families of farmers and cattle owners.

9. It is stated that the present application has been filed to protect the residence of the dairy owners, who are licenced<sup>2</sup> and have been carrying on At paragraphs 2, 4 and 35 of this application.

Paragraph 35 of the application This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 13/08/2024 at 03:05:37 dairy work for three (3) generations. It is stated that some of the allottees/dairy licence holders are also carrying on ancillary work<sup>3</sup> of providing fodder, materials required for cattle dairy farming, basic needs etc. for supporting the other cattle farmers in this colony.

10. Mr. Arun Bhardwaj, learned senior counsel for the Applicant states that the dairy owners of Bhalaswa are responsible towards their cattle and the residence in the animal sheds is necessitated due to the engagement of the workers and since the dairy owner along with his family looks after the cattle. He states that the Applicants are before the Court to protect their residences.

11. Ms. Gauri Puri, the learned Court Commissioner has drawn our attention to her second report dated 23 rd February, 2024 and the section therein with respect to Bhalaswa Dairy along with the photographs annexed at Annexures 16, 17 and 18 (i) to 18 (viii).

12. This Court has considered the submissions of the Applicant and perused the record including the second report dated 23rd February, 2024 as well as the joint inspection report dated 09th July, 2024<sup>4</sup> of Bhalaswa Dairy Colony filed by Municipal Corporation of Delhi ('MCD') and Government of National Capital Territory of Delhi ('GNCTD').

13. The Applicant has filed the present application on the categorical assertion that it represents licenced dairy owners who responsibly own and rear cattle and are before this Court to protect the unauthorised construction of residences in the allotted animal shed plots.

Paragraph 44 of the application At pdf page 2440 filed by MCD along with the ATR.

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14. However, the photographs filed by the learned Court Commissioner with the second report dated 23rd February, 2024 qua Bhalaswa Dairy Colony at Annexure 16 show existence of commercial shops unconnected with cattle rearing on the ground floor of the buildings in this area. In addition, with this report, the Local Commissioner has placed on record photographs of an open land in this colony filled with plastic and other waste where 10 carcasses of dead calves are seen and a stray dog eating the carcass of the dead calves at Annexure 17. The dingy condition of the dairy units has also been highlighted in the report as well as the photographs filed at Annexure 18 (i) to 18 (viii). Some of the photographs are produced hereinbelow:

A. Dead Carcasses of the calves strewn amongst garbage This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 13/08/2024 at 03:05:37 B. Commercial enterprises being run in the dairy plots This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 13/08/2024 at 03:05:37 C. Dingy and unhygienic conditions of the floor in which the animals have been kept 14.1. The Petitioner at the hearing dated 27.05.2024 had produced photographs taken as on 26.05.2024 of cattle earing garbage at the Sanitary Landfill (SLF) site at Bhalaswa Dairy Colony and the pictures of cattle abandoned by the dairy owners on the streets writhing in pain and dying.

The pictures are reproduced hereunder:

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 13/08/2024 at 03:05:37 Cattle eating garbage near landfills site at Bhalaswa Dairy and the sick cow abandoned on the roadside This is a digitally signed order.

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Server on 13/08/2024 at 03:05:37

15. The MCD and GNCTD in the joint inspection report dated 03 rd July, 2024 have reported that 262 plots are being used for dairy, 145 plots are being used for dairy plus residence and 12 plots are being used for dairy plus commercial. Thus, as per the report which is based on a recent inspection conducted between 10th May, 2024 to 16th May, 2024, only 419 plots are being used by dairy owners for keeping cattle.

16. As per the minutes of meeting dated 19th August, 2019 jointly held between GNCTD and MCD, all dairy farms have to obtain four statutory licences. Licence under the Delhi Municipal Corporation Act, 1957, licence from Animal Husbandry, GNCTD under Cattle Premises Registration Rules, 1978, licence from Delhi Pollution Control Committee (DPCC) under Water (Prevention and Control of Pollution) Act, 1974 and licence from Food Safety Authority under Food Safety and Standards Act, 2006.

17. The Applicant is therefore, directed to place on record the list of the allottees who are being represented by the Applicant. Since, the Applicant has asserted that it represents dairy licence holders who have their residences in the dairy colony, the Applicant is directed to place on record individual affidavit of each allottee who is represented through this application. The affidavit of the allottee shall disclose the particulars with respect to the extent of construction<sup>5</sup> in the allotted shed, the number of cattle held by the allottee with the tag numbers of the cattle, the floor on which the cattle is kept, the licence(s) obtained by the allottee for the dairy, the details of the residents residing in the plot on each floor and their role with respect to the caregiving to the cattle. The affidavits are necessary so as The number of floors in the building will be mentioned.

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18. The Applicant association has also placed on record the list of its Governing Body Members. The individual affidavits of each of the members disclosing the facts set out hereinabove will be filed within the time granted.

19. The application for impleadment on behalf of Bhalaswa Dairy Residential Colony Committee is allowed, subject to the caveat that it shall be entitled to represent interests only on behalf of the allottees who file the individual affidavit as directed hereinabove. The association is arrayed as

Respondent No. 11.

CM APPL.45672/2024 (Interim Relief)

20. This is an application filed by newly impleaded Respondent No. 11 i.e., Bhalaswa Dairy Residential Colony Committee seeking a direction to MCD and Delhi Urban Shelter Improvement Board ('DUSIB') not to seal or demolish the dairies and residences of the persons they represent as it would render the residents homeless.

21. Learned senior counsel for Respondent No. 11 states that the family members of the dairy owners and the workers who take care of the cattle This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 13/08/2024 at 03:05:37 reside in this colony. He states the children of the dairy owners attend school in this colony.

22. Learned senior counsel for Respondent No. 11 states on instructions that the dairy owners of Bhalaswa Dairy Colony are willing to relocate the cattle to Ghogha Dairy Colony as directed vide order dated 19 th July, 2024. He states that the dairy owners will file an individual affidavit undertaking to re-locate the cattle along with all disclosures as directed by this Court. He states that upon filing the said affidavit, the MCD and DUSIB be directed to hold further action against sealing and demolition.

23. He states that the dairy owners will bear the expenses towards setting up the animal sheds in the plot allotted at Ghogha Dairy Colony and also pay the requisite charges towards allotment of the land to the land-owning agency as well as attendant charges qua the allotment.

24. To enable this Court to adjudicate on this application, the individual dairy owners who are ready and willing to re-locate their cattle to Ghogha Dairy Colony shall file an affidavit making following disclosures:

i. The number of cattle owned by the dairy owner along with its tag numbers and the floor of the building on which the cattle is kept. ii. Undertaking to shift the cattle to Ghogha Dairy Colony within the time granted by this Court.

iii. The extent of construction existing at the allotted plot i.e., ground floor, first floor, second floor, terrace, etc. The deponent will declare the use of each floor in the structure.

iv. The number of persons residing in each floor with their names and relationship to the allottee.

v. The description of the plot and details of the letter of allotment in This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 13/08/2024 at 03:05:37 favour of the deponent. Photograph of the super structure with the deponent.

vi. The photograph of the deponent will be affixed on the affidavit along with his identification proof.

25. The deponent of the affidavit will personally appear before the notary or oath commissioner for affirming the affidavit on oath.

26. The affidavits will be grouped together by the counsel for Respondent No. 11 separately for plots in Block A, Block B and Block C respectively. The affidavits will be filed with the registry of this Court on or before 13th August, 2024.

27. The affidavits will also be submitted to learned standing counsel for MCD and DUSIB appearing in this matter. In addition, the affidavits will be filed with Deputy Director (VS) Veterinary Services Department, Civil Line Zone, MCD and the Director of DUSIB on or before 13th August, 2024.

28. Subject to the aforesaid affidavits being filed within the time granted, MCD and DUSIB are directed not to seal or demolish the construction on such plots where both dairies and residences co-exist until the next date of hearing. This interim protection is being granted only with respect to the plots of the deponents of the affidavits, who have undertaken to relocate the cattle.

29. The truthfulness of the contents of the affidavits will be verified by Deputy Director (VS) Veterinary Services Department, Civil Line Zone, MCD, Veterinary Officer, AH Unit, Development Department, GNCTD, the Director of DUSIB, Ms. Geetanjali Goel, representative of DSLA, and Ms. Gauri Puri, learned Court Commissioner ('Court Committee').

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30. This Court has been given to understand that maintenance and laying down of storm water drains, street lights and roads and setting up of a bio- gas plant at the Ghogha Dairy Colony are the responsibility of the MCD. The MCD is the civic authority concerned with providing amenities at Ghogha Dairy Colony. The laying down of sewerage drains and water supply is the responsibility of Delhi Jal Board ('DJB'). The company providing electricity supply is North Delhi Power Limited ('NDPL').

31. Since, the new allottees at Ghogha Dairy Colony would require electricity supply and water supply connections for their animal sheds necessary directions for time bound allotment of connections will be issued on the next date. Accordingly, DJB and NDPL are impleaded as

Respondent Nos. 12 and 13 respectively.

32. The Petitioner is directed to file an amended memo of parties reflecting the newly impleaded Respondent Nos. 11, 12 and 13. The registry is directed to issue notice to Respondent Nos. 12 and 13 through the standing counsel/nominated counsel through the electronic mode.

33. GNCTD and MCD are directed to place before this Court the plan for making expeditious allotments of plots in Ghogha Dairy Colony to the eligible dairy owners, who are willing to shift their cattle from Bhalaswa. The plan shall indicate all necessary requisites to be complied with by the allottees; such as layout plan for the permissible construction at the allotted plot and the connections to be granted by statutory authorities to the plot so as to enable re-location of the cattle in a time bound manner. Since construction of animal shed as per the layout plan may take some time, MCD will also bring a proposal for providing temporary shelter to the care giver of the cattle at Ghogha Dairy Colony.

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34. The layout plan proposed for permissible construction will ensure that primacy is given to the fact that these sheds are for the welfare of the animals and are not for the residence of humans. Thus, except for providing reasonable constructed space for the care giver of the animals in the plot, the layout plan ought not to permit large scale construction. This direction is necessary since the existing construction observed in the 8 dairy colonies shows that massive constructions have been carried out at the cost of the animals.

35. GNCTD and MCD will ensure that the master plan of Ghogha Dairy Colony depicting the grazing area, bio gas plant, sewage and drainage facility and veterinary hospital will also be placed before this Court.

36. List on 16th August, 2024.

CM APPL.45834/2024 (Impleadment)

37. Present application has been filed for impleadment on behalf of four individuals who own seven dairies in Madanpur Khadar Dairy Colony.

38. Issue notice to the non-applicants through counsel, returnable on 16th August, 2024.

ACTING CHIEF JUSTICE MANMEET PRITAM SINGH ARORA, J AUGUST 09, 2024/msh/sk This is a digitally signed order.



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