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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9972/2022**
SANJEEV KUMAR

(48)

+ **W.P.(C) 6787/2022 & CM APPL. 20626/2022**
SANJEEV KUMAR

(50)

+ **W.P.(C) 10609/2022, CM APPL. 30728-30729/2022 & CM APPL.**
49239/2023

MUKESH SHARMA & ORS

..... Petitioners

Through: Mr. Anuj Aggarwal, Ms. Divya
Aggarwal and Mr. Pradeep Kumar,
Advocates

versus

HARDAYAL MUNICIPAL HERITAGE
PUBLIC LIBRARY & ANR

..... Respondents

Through: Mr. Tushar Sannu, Mr. Sahaj Karan
Singh and Mr. Hardik Saxena,
Advocates for R-1.
Mr. Rajinder Singh Jatav, Assistant
Librarian.
Mr. Apoorv Upmanyu and Mr.
Rishab Bhalla for Mr. Arjun Mahajan,
Standing Counsel for R-2/MCD.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA



ORDER

15.05.2024

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(The proceeding has been conducted through Hybrid Mode)

1. In terms of the order dated 09.02.2024, Mr. Apoorv Upmanyu, learned counsel for respondent no.2/MCD submits that despite number of reminders sent to the respondent no.1/Hardayal Municipal Heritage Public Library, in respect of the directions passed by this Court, the said respondent no.1 responded only in the month of April 2024 with certain documents. The utilization certificate has been also furnished. However, according to learned counsel for MCD, the same has not been attested by the Chartered Accountant and as such cannot be considered to be an authenticated document.
2. *Per Contra*, Mr. Tushar Sannu, learned counsel for respondent no.1 submits that all letters were responded to by respondent no.1 and utilization certificate has also been furnished, however, there was never a requirement for the said utilization certificate to be attested by the Chartered Accountant. Furthermore, he submits that the financial situation of respondent no.1 is so grim that they are unable to engage the services of a Chartered Accountant for the said purposes.
3. Mr. Anuj Aggarwal, learned counsel for the petitioners submits that the employees of respondent no.1 have received salaries only for 5 months from the month of April, 2021 till date which shows a pathetic trend in the Government department and its instrumentalities.
4. Having regard to the penurious and distressed financial condition of the petitioners who have to survive with a salary of 5 months in a period from April, 2021 till April, 2024, which is 3 long years, this Court pained to



even imagine how they would have survived for so many months without salary.

5. The issue of furnishing of utilization certificate attested by a Chartered Accountant can be done even at a later stage. As of now, this Court cannot countenance a situation where the employees of an Instrumentality of respondent no.2 are left to starve on the roads.

6. The High Courts in India are Superior Courts of record. They have original and appellate jurisdiction. They have inherent and plenary powers. Unless expressly or impliedly barred, and subject to the appellate or discretionary jurisdiction of the Supreme Court, the High Courts have unlimited jurisdiction, including the jurisdiction to determine their own powers. The aforesaid observations can be fortified with the enlightening observation of the nine-Judge Bench of the Supreme Court in *Naresh Shridhar Mirajkar vs. State of Maharashtra* reported as AIR 1967 SC 1.

7. In that view of the matter, this Court exercises plenary powers directing respondent no.2 to release arrears of salaries of the petitioners for the time being for the unpaid months from April, 2021 upto 31.05.2024. The respondent no.1 shall immediately upon receipt of funds, first pay all the arrears of salaries of petitioners and other employees and only thereafter engage the services of a Competent Chartered Accountant and get all the requisite documents attested in accordance with law and provide the same to Municipal Corporation of Delhi. The Municipal Corporation of Delhi, may thereafter, consider the said documents and proceed in accordance with law.

8. The arrears of salaries to the petitioners shall be released within 15 days from today, failing which the senior officers of the MCD as also the respondent no.1 shall be present in person to personally answer for such



delay, if at all.

9. The officers of both the Instrumentalities are expected to coordinate with each other and in any case hold a meeting on the date and time as convenient to them.

10. List for compliance on 29.10.2024.

TUSHAR RAO GEDELA, J

MAY 15, 2024

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