STANDING ORDER NO. L&O/81/2022

RESPONSIBILITY OF THE POLICE REGARDING UNAUTHORIZED CONSTRUCTION AND ENCROACHMENT ON GOVERNMENT LAND

I INTRODUCTION

The problem of unauthorized construction and encroachments on government land has become grave in many areas. The police are not technically competent or qualified to assess the structural stability of a building or whether any person is deviating from the building plans or is constructing/renovating the building in a dangerous manner and posing a threat to his neighbours or has encroached on government land and therefore, cannot be tasked to identify such buildings or construction/ renovation or encroachments.

While interacting with local public, RWAs, Market Associations and at other public for a, local senior police officers should help to create public awareness about the actual role of police in this matter.

This Standing Order aims at clarifying the role of the Police Department on the subject.

II LEGAL PROVISIONS

A. The role of police u/s 344 (2) of DMC Act would be as follows:

(a) The MCD can issue notice to police u/s 344 (2) of DMC Act giving following directions:-

(i) to stop unauthorised construction at a particular place;

(ii) to remove the workmen;

(iii)to seize construction material including tools and machinery etc. involved in the work.

(b) The SHO to whom the letter is addressed has to take immediate action to stop this construction, remove the workmen and seize the construction material including tools and machinery.

(c) The construction material has to be handed over immediately to the concerned MCD officials for direct disposal.

The modalities for taking this action are described in the following paras:-

(a) While issuing notice to the Police u/s 344(2) of DMC Act, 1957, MCD should ensure that directions to Police for stopping construction are sent only after notice is issued to the owner/ builder. This fact should also be mentioned in the notice issued to police.

(b) It is clarified that powers u/s 344 (2) of DMC Act have been delegated by the Commissioner, MCD to the Zonal Assistant Engineers (Bldg.) who are legally empowered to sign and issue such letters to the Police authorities. SHOs should take cognizance of such letters, sent by Assistant Engineers (Bldg.) and ensure compliance.

(c) Whenever such directions are issued u/s 344 (2) of DMC Act to the police, the SHO shall intimate the date, time and venue for the operation. The MCD shall depute staff for taking over the seized goods during the operation which shall subsequently be deposited with the concerned J.E. (Store). However, in case it is practically not possible for the Police Officer in-charge to give intimation in advance to MCD authority, the Police officer shall, after the seizure of the goods, intimate the MCD authority for taking over the said goods. The concerned MCD authorities in such cases shall depute staff within 24 hours to go to the Police Station for taking over the seized goods. Till such time, the seized goods would be in Police custody.

(d) The APRO Control Room of each MCD Zone will act as the Nodal Officer and will coordinate the matter even during odd hours. The seized material and equipment shall be got deposited in the Store of J.E. (Works) in each ward under the custody of J.E. (Works). The In-charge of the store shall get the seized items deposited; make inventory in the Register. The seized material shall be disposed off on the written

orders of the Executive Engineer (Bldg./Works) etc. as the case may be. The Zonal Deputy Commissioner of MCD would issue necessary instructions for compliance by all concerned and a list of stores along with locations, names & telephone numbers of the Nodal Officers (APRO in-charge/Control Room) shall be furnished to the concerned area Deputy Commissioners of Police.

The above instructions should be observed by all concerned while taking action u/s 344 (2) of DMC Act.

B. Any violation of the Delhi Municipal Corporation Act 1957 is required to be intimated to the concerned Municipal Officer by the Officer In-charge of a Police Station, as mandated under section 475 of the Act. There is no inherent authority with police officials to stop any unauthorized construction.

1. This intimation shall be given in the following manner: -

   (i) Immediately on receipt of an information about unauthorized construction or violation of the DMC Act 1957 in his jurisdiction, the SHO shall intimate the concerned Deputy Commissioner of the MCD in writing.

   (ii) The SHO shall also give a copy of this letter immediately to the person committing the offence, obtain a receipt from him and place it in the Police Station file.

   (iii) The SHO shall also send a copy of this letter to the District DCP on the same day.

   (iv) The District DCP shall write to the Commissioner of the concerned Municipal Corporation enclosing all intimations received by him every day.

   (v) The District DCP shall also give a copy of this letter to the person committing the offence.

2. Thus it would be mandatory for the SHO as well as the DCP of the District to give a copy of their letters to MCD, to the person committing the offence on the same day.

3. The above instructions should be followed strictly in all Constructions including major/minor Renovation matters. The

officers concerned shall be held responsible for non-compliance of above instructions.

III DEMOLITION OPERATIONS

It is the duty of the Police to maintain law and order at the time of demolition operations conducted by DDA and other local bodies for removal of encroachments. For this purpose, the Police has to make suitable arrangements. All Distt. DCsP shall provide necessary force for demolition purposes to the MCD or DDA or NDMC as the case may be, on the basis of availability and requirement.

The following guidelines shall be followed in such operations:

(i) The local bodies such as MCD, NDMC & DDA shall be asked to intimate the District DCP concerned sufficiently in advance the date, venue, quantum of operations, so that the District DCP can make an assessment of the situation from the law and order point of view and requisition for additional force could be made in advance, if required.

(ii) On receipt of information, the Distt. DCP shall have a quick assessment made through Insp Law & Order personally, who shall personally visit the spot and have local assessment and forward the report immediately to District DCP for making assessment. The District DCP shall make an assessment on the basis of report of Insp Law & Order and opinion of SHO & ACP. If in his opinion the operation can be launched, he will send requisition for additional force, from DCP/Ops., who shall be responsible to provide the outside force. On the other hand, if the Distt. DCP feels that the operation should be postponed either from the law and order point of view or due to non-availability of force at that time; he shall inform the local body accordingly suggesting another date after informally discussing the matter with the officers concerned. He shall, in addition, keep the Joint/Addl.C.P. concerned posted with development.

(iii) In case of any large scale demolition program, communal sensitive issue or issue involving public at large, advocates etc., secret on ground assessment of the situation be also conducted from Special Branch promptly after receipt of intimation from the MCD, NDMC & DDA etc and while making the decision either to launch the operation or delay

the operation, the assessment report of Special Branch should also be taken into consideration.

(iv) Before any operation is launched, the officers and man, who are put on duty, shall be properly briefed, fully equipped with shield, lathies and arms, if required. They shall be kept under proper check and the principle of use of minimum force shall be kept in view.

(v) In case of demolition of religious structures on public lands which are in nature of encroachments, the matter must be first examined from Religious Committee under the chairmanship of Secretary (Home), Govt of NCT of Delhi constituted by Hon'ble LG vide order dated 18.02.1991. The other members of the Committee are Addl. Commissioner of Police (Spl. Branch), Joint Commissioner of Police of the range concerned and the representative of the land owning agency concerned. The committee takes into account following factors before deciding the removal of religious structure after the proposal is received from the land owning agency.

a. Site Plan, Photographs of religious structure and details of ownership of land.
b. The matter of gathering around the religious place, which attracts devotees daily or during the festivals.
c. Views of the Special Branch, Delhi Police and local police regarding law and order problems which may arise at the time of removal of the encroachment.
d. Whether any court case is pending or stay has been granted. Views of the land owning agency regarding relocation of the religious structure which may have come up on public land.
e. The requirement of the land owning agency for the removal of the religious structures; whether there is any plan for implementation and how urgent it is.

(vi) Whenever a proposal is received regarding any mass demolition/sealing/eviction drive by any Civic Authority namely MCD, NDMC, DDA & L& DO etc., the Hon'ble Lt. Governor's Secretariat is to be informed regarding such drives by Commissioner of Police/Spl. Commissioner of Police, at least one week in advance. Thus District DCP to ensure that all such matters are brought in to the notice of Secretariat of worthy Commissioner, at least 15 days in advance.

IV SUPERSESSION CLAUSE

This Standing Order supersedes the previous standing order No. 250/1989 issued vide No. 6144-6400/XXIX/86/Spl. C&T (AC-V) dated 25.01.1989.

V DISCLAIMER

It is made clear that this Standing Order is exclusively for internal smooth functioning of Police Department.

Rakesh Asthana

(RAKESH ASTHANA)
COMMISSIONER OF POLICE:
DELHI.

06.06.2022

No. 44001-44150/Record Branch/PHQ dated Delhi, the 6/6/22.

Copy forwarded to:-

1. All Special Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Delhi including Jt. Director, Delhi Police Academy, Delhi/New Delhi.
3. All Additional Commissioners of Police, Delhi.
4. OSD to C.P., Delhi.
5. All Deputy Commissioners of Police, Districts/Units including PHQ, C.P. Sectt., FRRO and Deputy Director/Delhi Police Academy, Delhi/New Delhi.
6. DCP/HQ(IV)/PHQ with the direction to upload the Standing Order on Intra-DP.
7. LA to CP and FA to C.P., Delhi.
8. All ACsP/Insprs./PHQ.
9. PS/Reader to C.P., Delhi.
10. HAR/PHQ.
11. Librarian/PHQ.