

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP. No. D- 372 of 2017
(Muhammad Nasir v. Sindh Building Control Authority and 02 others)

Date	Order with Signature(s) of Judge(s)
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1. For order on CMA No. 1741/2017
2. For hearing of main case

17.03.2022

Mr. Irfan Aziz, advocate for the petitioner
M/S Dhani Bux Lashari, Nadir Ali Burdi, and Ghulam Akbar Lashari, advocates
for SBCA
Mr. Ali Safdar Depar, AAG

The case of the petitioner is that respondent No.2/builder has raised illegal construction over subject plot bearing No. 10 RB-3, Ram Bagh Quarters, Karachi, which is commercial. It is further urged that the impugned construction has been raised in gross violation of rules, regulations, and bylaws and without an approved plan.

This Court vide order dated 27.9.2017, appointed Nazir of this Court as Commissioner to ascertain the factual position at the site. This matter was fixed on 08.12.2021 and Sindh Building Control Authority (SBCA) filed a compliance report which shows a violation of the approved plan and increasing the number of shops, erecting extra columns, covering ducts space, changing of residential units on the first floor into offices, change of internal planning, increasing the number of residential units and excess covered area. It further shows that SBCA issued a three days notice dated 20.2.2017 followed by another notice under Section 7-A of SBCO, 1979. The record further reflects that the revised building plan of respondent No.2/owner has already been rejected by SBCA with direction to remove the violation of the approved building plan which is beyond the permissible limits, therefore, the Director-General SBCA was, directed to submit a comprehensive report regarding the action taken and /or prosecution initiated against the builder/owner(s) for raising unauthorized, illegal, without or/and in violation of approved plan construction on the subject plot. He was also directed to take action under law against the concerned officers and officials of the SBCA, who were posted at the relevant time when the alleged unauthorized, illegal construction was made, in violation of approved plan, laws, and regulations.

Today, another report on behalf of respondent/SBCA has been filed, which shows that a minor penalty of withholding of two annual increments, for the period of 01.12.2022 & 01.12.2023 was imposed on Mr. Akhtlaq Ahmed Odho, Building Inspector (BPS-14) and other officials who were posted at the relevant time under SBCA's Efficiency and Discipline Regulation, 2016.

Prima-facie the offense is heinous as there are so many buildings that were constructed in violation of rules and regulations of the respondent department; and, the purported penalty imposed upon the officials is not commensurate to the offense,

this is just eyewash. The competent authority ought to have imposed the penalty against the delinquent officials for the omission of their duties, under the respective laws as well as the disciplinary laws for misconduct.

We are not satisfied with the recommendations of the Inquiry Committee and action was taken by the respondent-SBCA against the delinquent officials. The respondents are equally responsible for the dereliction of their duty by not taking action in a time when the alleged violation was taken place. Let Chief Secretary, Sindh take prompt penal/disciplinary action against all delinquent officials including the inquiry committee and competent authority, who were/are instrumental in allowing the illegal construction and perpetuating such illegalities. The said exercise shall be undertaken within three weeks after hearing all concerned. In the intervening period, the delinquent officials shall not be given administrative postings.

Chief Secretary, Sindh is warned that if he fails to comply with the directions within time, he shall be proceeded under Article 204 of the Constitution.

To come up after three weeks. Let a copy of this order shall be communicated to the Chief Secretary, Sindh for compliance.

JUDGE

JUDGE

Nadir/PA