* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Judgment reserved on: 29th July, 2026***
Judgment pronounced on: 21st August, 2026

\# **CNR No. DLHC010471122022**

\+ **W.P.(C) 17087/2022 & CM APPL. 54222/2022**

NEW DELHI MUNICIPAL COUNCIL .....Petitioner

Through: Ms. Puja S. Kalra, Mr. Virendra Singh, Advocates.
Mr. Yashpal, AE, NDMC.

versus

QUAMI EKTA TRUST & ORS. .....Respondents

Through: Mr. Prateek Gupta, Mr. Pulkit Agarwal and Ms. Vishakha Kaushik, Advocates for R-1.
Mr. Amit Singh Chauhan, Mr. Kuldeep Kasana and Mr. Udit Chauhan, Advocates for R-2/ Monitoring Committee.
Mr. Balendu Shekhar, CGSC with Mr. Krishna Chaitanya, Mr. Raj Kumar Maurya and Mr. Divyansh Singh Dev, Advocates for UoI.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

AMIT BANSAL, J.

1. The present writ petition has been filed by the petitioner/New Delhi Municipal Council ('NDMC') seeking setting aside of the judgment dated 1st November, 2022 passed by the Principal District and Sessions Judge,

New Delhi District, Patiala House Courts, New Delhi ('Principal District and Sessions Judge') in MCD Appeal No.03/2018.

2. The impugned judgment holds that the Monitoring Committee appointed by the Supreme Court ('Monitoring Committee') was not empowered to inspect any premises meant for institutional purposes and therefore, its direction to NDMC to seal Plot bearing no. 31, Bhai Veer Singh Marg, Gole Market, New Delhi, ad measuring 299.937 sq. mtrs. ('subject property') was *non est* in law. Accordingly, the order dated 22nd February, 2018 passed by the Appellate Tribunal, MCD ('ATMCD') was set aside.

3. Brief facts necessary for deciding the present appeal are as under:-

3.1 On 3rd November, 1988, the subject property was allotted to Quami Ekta Trust ('respondent trust') for construction of their institutional building. The possession of the land was handed over to the respondent on 28th January, 1992.

3.2 On 12th March, 1992, a Memorandum of Agreement ('MoA') was executed between the President of India through Land and Development Office ('L&DO'), Ministry of Urban Development and the respondent trust.

3.3 On 25th January, 1998, the sanctioned building plan was approved and on 26th February, 1998, the completion certificate was issued for construction of basement, ground floor, first floor, second floor and third floor.

3.4 On 15th June, 2002, it came to the knowledge of L&DO that the respondent trust had sublet first floor, second floor and third floor of the subject property. Accordingly, notices were sent to the respondent trust alleging breach.

3.5 On 13th January, 2009, the basement, ground floor, first floor, second floor and third floor of the subject property of the respondent trust were sealed by the NDMC at the behest of the Monitoring Committee as the building was being put to use contrary to the sanctioned use.

3.6 On 28th February, 2009, the ground floor was de-sealed under the orders of Monitoring Committee as the same was being used for permissible activities.

3.7 On 26th August, 2009, the L&DO sent a letter to the respondent trust demanding a sum of Rs.24,47,906/- as penalty/misuse charges. On 28th August, 2009, the aforesaid amount was paid by respondent trust.

4. The respondent trust challenged the sealing action of NDMC by filing an appeal before the ATMCD. The ATMCD, *vide* order dated 28th February, 2020, dismissed the appeal.

5. The ATMCD held that the respondent trust committed misuse of the property by using the subject property, which was not on a notified road, for commercial purposes. As per Zonal Development Plan of Zone-D where the subject property is located, the land use of the properties is for socio-cultural institution. This amounted to violation of MPD, 2021 and hence, respondent trust was held to be liable to pay ten times penalty as per paragraph 15.9 (v) of the MPD, 2021.

6. The aforesaid judgment was challenged by the respondent trust by filing an appeal under Section 256 of the NDMC Act before the Principal District and Sessions Judge, which was allowed by the impugned order. The

impugned order held that the Monitoring Committee was not empowered to inspect any premises meant for institutional purposes and therefore, its direction to seal the property was *non-est* in law. The sealing action was carried without issuance of any notice to the respondent trust.

7. The impugned order held that once the respondent trust has paid dues for misuse of the property to L&DO and the misuser has been removed, there was no power with the NDMC to keep the property sealed. The impugned order further held that the penalty could not have been levied in terms of Chapter 15 of MPD, 2021.

8. Accordingly, the order passed by the ATMCD was set aside and petitioner/NDMC was directed to de-seal the subject property without demanding any penalty.

9. Aggrieved by the impugned judgment, the NDMC filed the present writ petition.

10. While issuing notice in the present petition on 15th December, 2022, an interim order was passed staying the operation of the impugned order.

SUBMISSIONS ON BEHALF OF PARTIES

Submissions on behalf of the petitioner/NDMC

11. Ms. Pooja Kalra, counsel appearing on behalf of the NDMC has made the following submission:-

11.1 The Principal District and Sessions Judge did not have the jurisdiction to question the action of the Monitoring Committee. The impugned order has misinterpreted the order passed by the Supreme Court on 14th August, 2020 in ***MC Mehta* v. *Union of India***[1]. The impugned order ignored the

[1] 2020 SCC OnLine SC 648.

subsequent directions of the Supreme Court on 13th September, 2022, whereby a Judicial Committee was constituted to examine the challenges to directions of the Monitoring Committee.

11.2 It is an admitted position that the respondent trust filed I.A. 71/2022 before the Supreme Court in ***MC Mehta* v. *Union of India***, challenging the sealing of the subject property. This was an acknowledgment that the sealing action flows from direction of the Monitoring Committee. Therefore, the appropriate forum to challenge the sealing action was before the Supreme Court.

11.3 The finding in the impugned order that the Monitoring Committee did not have the jurisdiction to take action against institutional lands is erroneous. The impugned order incorrectly holds that the jurisdiction of the Monitoring Committee was only in respect of misuse of residential premises and did not extend to institutional premises. There was nothing in that order of the Supreme Court to exclude institutional premises from the oversight by the Monitoring Committee.

11.4 The respondent trust sublet more than the permitted areas to commercial entities in violation of the provisions of Master Plan of Delhi, 2021 ('MPD, 2021') and the subletting guidelines dated 17th January, 2008. The Monitoring Committee inspected the subject property and accordingly, the subject property was sealed.

11.5 Even through L&DO recovered misuse charges from the respondent trust, this did not extinguish the NDMC's power to demand misuse charges.

11.6 Both L&DO and the NDMC operate in distinct and independent legal spheres and the action by one does not eclipse the statutory powers of the other. L&DO acts as a lessor and enforces lease conditions governing allotment of government land, whereas NDMC being the civic body, is entrusted with enforcement of planning laws, regulation of land use and building activity. Therefore, even when L&DO condones or regularises a breach, the same does not extinguish the misuse under MPD, 2021. Reliance in this regard is placed on the judgment in ***Asha Rani* v. *NDMC & Ors*[2].**

11.7 The respondent trust did not take any permission from NDMC for conversion of property from institutional to commercial use, which is actionable under Section 250 of the New Delhi Municipal Council Act, 1994 ('NDMC Act'). NDMC was well within its power to levy misuse charges along with penalty, in terms of Clause 15.9 of the MPD, 2021.

11.8 In compliance with the order dated 7th May, 2007 passed by the Supreme Court in ***MC Mehta* v. *Union of India*** (supra), the NDMC had given wide publicity through electronic media and print media and public notice dated 29th May, 2007 was issued in leading newspapers for removal of misuse. Despite the same the respondent trust did not stop the misuse.

Submissions on behalf of respondent trust

12. Mr. Pratik Gupta, counsel appearing on behalf of the respondent has made the following submissions:-

12.1 The Supreme Court *vide* its order dated 30th April, 2013 in ***MC Mehta* v. *Union of India*** had directed that the application filed by the respondent trust, along with other pending applications be treated as an appeal under Section 254 of the NDMC Act. In furtherance to the said directions, the ATMCD was directed to hear these applications as appeals preferred against

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[2] 221 (2015) DLT 730.

an order of sealing. Therefore, against the order passed by the Tribunal under Section 254 of the NDMC Act, the respondent filed a statutory appeal under Section 256 of the NDMC Act before the Principal District and Sessions Judge. Accordingly, it cannot be said that the Principal District and Sessions Judge did not have the jurisdiction to adjudicate the said appeal.

12.2 The directions passed by the Supreme Court on 28th January, 2019 and 13th September, 2022 are not applicable as these directions to approach Supreme Court/Judicial Committee were in respect of orders passed by the Monitoring Committee. In the present case, the Supreme Court itself *vide* order dated 30th April, 2013 had directed that application filed by the respondent trust would be treated as an appeal under Section 254 of the NDMC Act.

12.3 The sealing action in the present case was on account of violation of Clause XXIV of the MoA dated 12th March, 1992 and not MPD, 2021. Reliance in this regard has been made on the file notings filed by the respondent trust (*page 116 of the documents filed by respondent trust*). This fact is also evident from the communication dated 3rd June, 2009 sent by NDMC to L&DO.

12.4 The respondent trust having paid the entire misuse charges of Rs.24,47,946/- which were levied by L&DO on account of violation of terms of the MoA dated 12th March, 1992, the NDMC could not have sealed the subject property.

12.5 No notice was ever issued by the NDMC or respondent no.2/Monitoring Committee for violation of MPD with respect to the subject property.

12.6 In the present case, the subject property is neither situated in the residential area nor was it allotted for residential purposes. The Supreme Court *vide* its order dated 14th August, 2020 has held that Monitoring Committee was appointed only to check the misuser of residential properties for commercial purposes. Monitoring Committee could not have taken action in respect of institutional premises.

12.7 Chapter 15 of the MPD, 2021 is not applicable to the subject property as the subject property does not come under the ambit of a residential property. Therefore, the penalty imposed in terms of Clause 15.9 of Chapter 15 of MPD, 2021 cannot be imposed.

12.8 Clause 15.9 of the MPD, 2021 gave an option to regularize the breach on or before 30th June, 2009. However, in the present case, there was no occasion for the respondent no.1 to regularize in terms of Clause 15.9 as the subject property was sealed on 13th January, 2009. Therefore, the penalty of Rs.39,93,818/- is unsustainable.

ANALYSIS AND FINDINGS

13. I have heard the counsel for the parties and perused the material on record.

14. First, I will take up the issue of jurisdiction of the Principal District and Sessions Judge to entertain the appeal filed on behalf of the respondent trust.

15. Pertinently, the issue of jurisdiction was never raised by the NDMC before the Principal District and Sessions Judge and is being raised for the first time in the present writ petition.

16. It is a matter of record that against the sealing action of NDMC, the respondent trust had filed applications being I.A. 2570-2571 in W.P.(C) 4677/1985 titled as ***M.C. Mehta* v. *Union of India***. The aforesaid applications were disposed of by the Supreme Court *vide* order dated 30th April, 2013 in the following terms:-

> *"8(i) We had, as noticed above, by our order dated 24.3.2006, appointed the Monitoring Committee for looking into the aspect of sealing premises, which were being put to non-conforming user. The Monitoring Committee had ordered the sealing of those premises. Against which, a large number of the applicants have approached the Court (by filing writ petitions which were converted into IAS, or by filing IAs) praying for desealing. All the said IAs are still pending consideration before this Court. We propose to issue appropriate directions in the said IAs as well.*
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> *(ii)* ***We deem it appropriate to direct, that all these orders of sealing passed by the Monitoring Committee, and the sealing undertaken thereunder, shall be deemed to have been passed by the concerned statutory authority exercise of powers conferred under Section 345A of the MCD Act, or under Section 250 of the NDMC Act, or in terms of Section 31A of the Delhi Development Act.***
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> *(iii) In terms of the provisions of Section 347B of the MCD Act or under Section 254 of the NDMC Act or under Section 31C of the DDA Act, an appeal lies to an Appellate Tribunal against an order passed under Sections 345A, 250 and 31A of the three Acts respectively.*
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> *(iv)* ***These IAs which are pending before this Court for desealing of premises, on one ground or the other, will be treated as appeals under Sections 347B, 254 and 31C of the respective Acts (NDMC Act/MCD Act/ DDA Act) before the respective Appellate Tribunal constituted under Sections 347A of the MCD Act, Section 253 of the NDMC Act and Section 31B of the Act****. The Registry will transmit all these IAs (including objections, if any) to the respective Tribunals under the MCD, NDMC and DDA Acts. The above Tribunals shall then hear these applications, as appeals preferred against an order of sealing, and decide the same on their own merits, in accordance with law. Parties will be at liberty to file additional affidavits/counter-affidavits and additional documents with the leave of the concerned Tribunal.*
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> *(v) The Monitoring Committee reports as regards all these individual*

IAs will also be placed before the Appellate Tribunal. The Monitoring Committee will be represented by a panel lawyer before the Tribunal (to present the view point expressed in the orders passed by the Monitoring Committee). … All these IAs shall be disposed of, as far as possible, within a period of one year from the date of receipt of the papers, and this order.”

[emphasis supplied]

17. Pursuant to the aforesaid directions, the applications filed on behalf of the respondent trust were transferred to the ATMCD and were treated as appeals under Section 254 of the NDMC Act.

18. In terms of Section 256 of the NDMC Act, an appeal against the order of the Appellate Tribunal can be filed before the Principal District and Sessions Judge. Therefore, in my opinion, the appeal filed by the respondent trust against the order passed by the ATMCD, before the Principal District and Sessions Judge was maintainable and hence, it cannot be said that the impugned order was without jurisdiction.

19. On behalf of the NDMC, reliance is placed on orders passed by the Supreme Court on 28th January, 2019 and 13th September, 2022 in W.P.(C) 4677/1985 titled as ***MC Mehta v. Union of India*** to contend that the remedy for the respondent trust was to approach the Judicial Committee appointed by the Supreme Court. The aforesaid submission cannot be accepted as, in terms of the aforesaid orders of the Supreme Court, a party could approach the Judicial Committee in respect of orders passed by the Monitoring Committee. In the present case, the respondent trust had filed an appeal before the Principal District & Session Judge under Section 256 of NDMC Act against the order passed by the ATMCD. Therefore, the reliance placed by the NDMC on the orders passed by the Supreme Court on 28th January, 2019 and 13th September, 2022 is misplaced.

20. Now, I proceed to examine the impugned order on merits.

21. It is clear from the letter dated 3rd June, 2009 (*page no. 103 of the documents filed by the respondent trust*) sent by the NDMC to L&DO that the same was premised on violation of terms and conditions of the lease deed (the MoA) by the respondent trust. The relevant extracts from the said communication are set out below:

> *"In view of the above, you, are therefore requested to provide the necessary details/information **regarding recovery of misuse charges on account of violation of the terms and conditions of lease deed**, if already deposited with your office by the party within 7 days."*
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> [emphasis supplied]

22. Even the file noting of the NDMC records the fact that the respondent trust has violated paragraph no. xxiv of the MoA and has subleased a part of the premises (*page no. 116 of the documents filed by trust respondent trust*). Paragraph no. xxiv of the MoA is set out below:

> *"XXIV The Licencee shall not have any right or interest in the said premises and part with possession thereof and shall not transfer or assign, this agreement, or any part hereof, in any manner."*

23. Admittedly, respondent trust has paid the entire misuse charges of Rs. 24,47,946/-, which were levied by L&DO for violation of the terms and conditions of the aforesaid MoA. Therefore, NDMC was not competent to take any action against respondent trust for violation of terms and conditions of the MoA.

24. It is NDMC's own case that the subject property has been sealed at the behest of Monitoring Committee.

25. It has vehemently been contended on behalf of the respondent trust that the Monitoring Committee did not have the jurisdiction to direct sealing in respect of institutional premises. The jurisdiction of the Monitoring

Committee was only in respect of misuse of residential premises for commercial purposes.

26. The Monitoring Committee was appointed by the Supreme Court *vide* order dated 24th March, 2006 to implement its decision dated 16th February, 2006 in ***M.C. Mehta* v. *Union of India & Ors.***[3] A perusal of the aforesaid judgment of the Supreme Court discloses that the aforesaid judgment was in the context of misuse of residential premises for commercial use. The aforesaid decision was later extended to areas falling within the jurisdiction of NDMC *vide* order dated 7th May, 2013.

27. In the subsequent order passed by the Supreme Court on 30th April, 2013, it was reiterated that the original judgment of the Supreme Court dated 16th February, 2006 ***MC Mehta* v. *Union of India*** was with regard to the misuse/ non-conforming use of residential premises. There was no reference to any institutional premises in the aforesaid judgment.

28. Similarly, in the subsequent judgment passed by the Supreme Court on 14th August, 2020 in ***M.C. Mehta* v. *Union of India***[4], it was reiterated that the Monitoring Committee was appointed only to check the misuse of residential properties for commercial purposes. Paragraph nos. 93, 94 and 97 of the said judgment are set out below:

> *"93.* ***It is apparent from the various orders passed by this Court from time to time and from the various reports of the Monitoring Committee that it was never authorised by this Court to take action against the residential premises that were not being used for commercial purposes. It was appointed only to check the misuser of the residential properties for commercial purposes.*** *After that, this Court directed that the Monitoring Committee should also look into the matter of "encroachment on the public land" and "unauthorised colonies" that*

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[3] (2006) 3 SCC 399.
[4] 2020 SCC OnLine SC 648.

have come up on the public land and were wholly unauthorised without sanction. At no point in time, ***this Court had empowered the Monitoring Committee to act vis-à-vis to the purely residential premises****.*

94. The power of sealing of property carries civil consequences. A person can be deprived of the property by following a procedure in accordance with law. ***The Monitoring Committee is not authorised to take action concerning the residential premises situated on the private land.*** *If there is unauthorised construction or in case of deviation, the requisite provisions are under the DMC Act, such as Sections 343, 345, 347-A and 347-B. The mode of action and adjudication under the Act is provided including appellate provisions and that of the Tribunal.* ***It would not be appropriate to the Monitoring Committee to usurp statutory powers and act beyond authority conferred upon it by the Court. The Monitoring Committee could not have sealed the residential premises, which were not misused for the commercial purpose*** *as done vide Report No. 149, nor it could have directed the demolition of those residential properties.*

97. After going through the report of the Monitoring Committee and other reports which have been relied upon by the Amicus Curiae, there is no scintilla of doubt that the Monitoring Committee in the past at any point of time did not seal any residential premises being used for residential purposes, situated on the private land nor it could have ordered demolition. ***The "caption" of the various reports of Monitoring Committee i.e. "PRELIMINARY REPORT OF THE MONITORING COMMITTEE FOR SEALING OF COMMERCIAL ESTABLISHMENTS IN RESIDENTIAL PREMISES" makes it absolutely clear that Monitoring Committee did not entertain any doubt about the purpose for which it was constituted****."*

[emphasis supplied]

29. Since the Monitoring Committee came into existence pursuant to order dated 24th March, 2006 passed by the Supreme Court in ***M.C. Mehta v. Union of India*** and its jurisdiction was defined in terms of the said order, therefore, in the opinion of this Court, the Monitoring Committee did not have the jurisdiction to direct sealing of properties in institutional areas.

30. From a perusal of the MoA dated 12th March, 1992, it is evident that the subject property was located in "*institutional area*" and not in residential area. The address of the subject property i.e. *Plot No. 31, Bhai Veer Singh Marg, Institutional area, Gole Market, New Delhi* also makes it abundantly

clear that the subject property is located in an institutional area. Therefore, Monitoring Committee did not have jurisdiction to seal the subject property.

31. The Supreme Court in ***MC Mehta* v. *Union of India***[5] has held that the power to seal is one that visits a person with '*serious civil consequences*' and deprivation of property cannot be exercised except strictly in accordance with the procedure prescribed by the statute.

32. Counsel appearing on behalf of NDMC has placed reliance on Section 250 of the NDMC Act to justify the sealing action. However, the record of the case bears out that no notice was ever issued to the respondent trust for the violation of the provisions of Section 250 of the NDMC Act.

33. Counsel for NDMC submits that a public notice dated 29th May, 2007 was issued in leading newspapers. A copy of the said public notice has been handed over in Court and the same is taken on record. A perusal of the notice shows that it was in the context of misuse of residential property for commercial purposes and not for institutional premises. Relevant extract from the public notice is set out below:

> "*… The misuse of premises shall include any unauthorized construction & commercial activity in Lutyens' Bungalow Zone area,* ***<u>use of residential property for commercial purpose</u>*** *or change in use of premises from parking/ storage to office/ commercial, etc.*
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> *** *** ***
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> *This action is also in compliance of the Judgment dated 16.02.2006 and direction dated 07.05.2006 passed by Hon'ble Supreme Court of India in IA No. 22 In WP (C) No. 4677 of 1985 etc. In the matter of MC Mehta v. Union of India & Others, wherein it has been directed that the sealing for misuse of the premises has to be carried out in the area governed by New Delhi Municipal Council.*"
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> [emphasis supplied]

34. Therefore, the aforesaid public notice would not be relevant for the premises of the respondent trust, which was an institutional premise.

35. NDMC has imposed penalty on the respondent trust in terms of Chapter 15 of the MPD, 2021. In this regard, reference may be made to Chapter 15 of the MPD, 2021 titled as "*Mixed Use Regulations*".

36. Clause 15.1.i of Chapter 15 of MPD, 2021 defines mixed use as "*non-residential activity in residential premises*". There is no reference at all to '*institutional premises*' in Chapter 15 of MPD, 2021. A perusal of the Chapter 15 of MPD, 2021 reveals that the intent was to check misuse of residential properties for non-residential activities. For ease of reference, Chapter 15, Clause 15.1 of the MPD, 2021 is set out below:

> "*15.1 GOVERNING PRINCIPLES FOR MIXED USE*
> *i.* ***Mixed use means the provision for non-residential activity in residential premises.***
> *ii. The policy aims to balance the socio-economic need for such activity and the environmental impact of the said activity in* ***residential areas****.*
> *iii.* ***Mixed use allows access to commercial activities in the proximity of the residences and reduces the need for commuting across zones in the city.*** *However, at the same time, it needs to be regulated in order to manage and mitigate the associated adverse impact related to congestion, increased traffic and increased pressure on civic amenities.*
> *iv. The over-riding principles for permitting mixed use are the need to acknowledge and make adequate provision for meeting community needs, mitigating environmental impact and providing for safe and convenient circulation and parking.*
> *v. Mixed-use, (including small shops as per para 15.6.3.) shall not be permitted in the Lutyens' Bungalow Zone, Civil Lines bungalow zone, government housing, institutional/staff housing of public and private agencies and buildings/precincts listed by the Heritage Conservation Committee.*"
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> [emphasis supplied]

[5] 2020 SCC OnLine SC 648.

37. The properties located in the institutional areas were clearly outside the scope and ambit of Chapter 15 of MPD, 2021. Therefore, the NDMC could not have imposed penalty on the respondent trust, in terms of Clause 15.9 of MPD, 2021.

38. In any event, in terms of Clause 15.9 (vi), the misuse could have been regularized by payment of one-time registration and conversion charges without penalty on or before 30th June, 2009. However, in the present case, the property of the respondent trust was sealed on 13th January, 2009, i.e. much before 30th June, 2009. For the ease of reference, Clause 15.9 (vi) is set out below:

> *"(vi) [3][In respect of residential premises already under mixed use on 7.2.2007 in Special area, the owner / allottee / occupier of the plotted development shall be required to declare such mixed use by filling up a form in this respect and depositing it with local body concerned and pay one time registration charges and conversion charges without penalty on or before 30.6.2009 at the rate to be notified with the approval of the Government from time to time.]"*

39. Therefore, the penalty imposed by the NDMC was completely without jurisdiction.

CONCLUSION

40. In view of the discussion above, this Court is of the view that the sealing action carried out by NDMC was wholly without jurisdiction as the Monitoring Committee itself did not have the jurisdiction to direct sealing of properties in institutional areas. The sealing action was carried out in violation of principles of natural justice, without giving any notice to the respondent trust. As discussed above, the levy of penalty under Chapter 15 of the MPD, 2021 was also completely unsustainable.

41. Accordingly, this Court is of the view that there is no infirmity in the impugned order passed by the Principal District & Sessions Judge.

42. Accordingly, the present writ petition is dismissed.

43. A direction is issued to the NDMC to immediately de-seal the subject premises within four (4) weeks from today.

AMIT BANSAL
(JUDGE)

AUGUST 21, 2026
Vivek/-