



Government of Jammu and Kashmir,
Housing & Urban Development Department,
Civil Secretariat, Srinagar/ Jammu.

Notification

Jammu, the 15th, September, 2023

S.O 480.-Whereas, the Anti Corruption Bureau vide communication No. ACB-FIR-10/2022-ACB-J-13292-93 dated 20.07.2022 reported that a case FIR No. 10/2022 has been registered in P/S ACB, Jammu on 17.06.2022 u/s 7 of Prevention of Corruption Act, 1988 and section 120-IPC against Smt Jyoti Devi, Corporator, Ward No. 53 and her husband Sh. Sham Lal who were caught red handed while demanding and accepting ₹ 10,000/- as a bribe for issuance of mulba clearance certificate of works done to the complainant namely Sh. Irfan Ahmad S/o Late Sh. Bashir Ahmad R/o Gujjar Nagar, Jammu; and

Whereas, the matter referred to General Administration Department with the request to suggest further course of action enabling to proceed under the relevant provisions of Jammu and Kashmir Municipal Corporation Act, 2000; and

Whereas, the General Administration Department vide U.O No. GAD-VIG0SP/124/2022-09 (7044496) Dated 24.03.2023 opined as under:-

“Returned. On consideration of the matter in the General Administration Department, it has been observed that Jyoti Devi, Corporator has, in active connivance with her husband Sham Lal and after entering into a criminal conspiracy with him, demanded and accepted illegal gratification from the Complainant, who being a Contractor had executed works in the ward of the Corporator. This act on part of the Corporator, who being a public Servant, prima-facie tantamounts to a grave criminal offense attracting provisions of the Prevention of Corruption Act and IPC. The accused lady Corporator, has abused her official position, which entails action against her in terms of Section 34 of the Jammu and Kashmir Municipal Corporation Act, 2000.

On further consideration, the Competent Authority has directed that the Housing and Urban Development Department be advised to proceed against the delinquent Ms. Jyoti Devi, Corporator Ward No. 3, in terms of section 34 of the Jammu and Kashmir Municipal Corporation Act, 2000 and furnish the Action Taken Report (ATR) to General Administration Department for consideration of the Government.

Consequently, the decision of the Competent Authority is conveyed to the Housing & Urban Development Department for further action.”

Whereas, vide Government Order No. 56-JK(HUDD) of 2023 Dated 12.04.2023, an enquiry was ordered to be initiated by the Department under section 34 of the Jammu and Kashmir Municipal Corporation Act, 2000, wherein, Mr Anil Kaul, JKAS, Secretary, Housing and Urban Development was appointed as Inquiry Officer in the case to conduct an enquiry into the matter of alleged misconduct of Smt. Jyoti Devi, Councilor, for abusing official position; and

Whereas, Smt. Jyoti Devi, was afforded an opportunity to present her case/defense by the Inquiry Officer and she appeared before the Inquiry Officer on 26th of May 2023 and submitted a written statement of defense which inter alia referred to the provisions of Section 8 of the Municipal Corporation Act, 2000 asserting therein that no action can be taken against her; and

Whereas, the written statement was taken on record and considered, however, it was found that the said section has no applicability in view of the offence committed by the Corporator and as such her assertion is not legally tenable; and

Whereas, the Inquiry Officer vide letter PS/Secy/HUDD/Jmu/36 Dated 06.06.2023 recommended as under:-

“The assertion of the Corporator in her supplementary statement that she was not present on the scene of arrest cannot obviate the trail of events in the instant case which eventually has led to the lying of successful trap of arrest by the Anti Corruption Bureau. The act of demanding / accepting illegal gratification has unfolded at the scene of incidence of arrest. As per records available and statement of reply, the conduct of the Corporator does not absolve her from the alleged connivance involved in the offense keeping in view that ACB has registered FIR No. 10/2022 under section 7 of PC, Act, 1988 and section 120 IPC against Smt Jyoti Devi, and her husband. Moreover, the Corporator has not produced any evidence to substantiate her non involvement in the said offense.

As such, it transpires that Smt Jyoti Devi, Corporator has prima facie abused her official position and is liable for action under relevant part of section 34 (1) (b) of the Jammu and Kashmir Municipal Corporation Act, 2000 for having flagrantly abused her position as a Corporator”.

Whereas, in contemplation to proceed further under Section 34 (1) (b) of the Jammu and Kashmir Municipal Act, a notice for affording a final opportunity



of being heard was served upon Smt. Jyoti Devi, Councilor, H.No. 219/3 Vasant Vihar, ward No. 53 vide letter No. HUD/60/2022-01(C.No. 234617) dated 01.08.2023 as mandated under section 34 of the Act; and

Whereas, Smt. Jyoti Devi, submitted her reply on 06.08.2023 wherein she denied the facts and further resisted from the applicability of provisions of section 8 and further section 34 of the Jammu and Kashmir Municipal Corporation Act, 2000 asserting therein that no action can be taken against her under the provisions of said sections; and

Whereas, the applicability of section 8 of the Jammu and Kashmir Municipal Corporation Act, 2000 is not attracted in the instant case and the conduct of the councilor squarely falls within the ambit of Section 34(1)(b) which provides as under:-

“Removal or resignation by Councillors.—(1) The Government may, by notification , remove any Councillor, if in its opinion ___

(b) he has flagrantly abused his position as Councillor or has through negligence or misconduct been responsible for the loss or misapplication of any money or property of the Corporation”; and

Whereas, on perusal of the factual details as furnished by Anti Corruption Bureau viz-a-viz circumstantial evidences collected on the arrest and the directions of the Competent Authority, the instant case is covered under the provisions of section 34 of the Jammu and Kashmir Municipal Corporation Act, 2000 and the assertion of the Municipal Councilor is not maintainable and entertainable as it does not stand the test of law; and

Whereas, the Inquiry Officer after considering the reply of the Councilor, statement of defense, has recommended that the Councilor namely Smt. Jyoti Devi has prima facie flagrantly abused her official position as a Councilor, and therefore is liable for an action under section 34(1)(b) of the Jammu and Kashmir Municipal Corporation Act, 2000.

Now, therefore, in exercise of the powers conferred by Section 34(1)(b) of the Jammu and Kashmir Municipal Corporation Act, 2000, the Government hereby removes Smt. Jyoti Devi, Councilor, ward No. 53 from her office on the ground of abuse of her official powers, with immediate effect.

By order of the Lieutenant Governor.

Sd/-
(Prashant Goyal)
Principal Secretary to the Government,
Housing and Urban development Department.

No. HUD /60/2022-01(C.No. 234617)

Dated: 15.09.2023

Copy to the:

1. Joint Secretary (Jammu, Kashmir & Ladakh), Ministry of Home Affairs, Government of India.
2. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
3. Commissioner/ Secretary to the Government, General Administration Department.
4. Chief Electoral Officer, J&K
5. Secretary to the Government, Department of Law Justice and Parliamentary Affairs.
6. Commissioner, Jammu Municipal Corporation.
7. Secretary in the Housing and Urban Development Department.
8. Director, Archives, Archaeology & Museums, J&K.
9. General Manager, Government Press, Jammu/Srinagar.
10. Private Secretary to Chief Secretary, J&K.
11. Private Secretary to Principle Secretary to the Government, Housing and Urban Development Department.
12. Smt. Jyoti Devi, Councilor, H.No. 219/3 Vasant Vihar, Ward No. 53.
13. Incharge Website, Housing and Urban Development Department.
14. Master file/Stock file.

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15.09.2023

(Thannaji Bhat)
Under Secretary to the Government
Housing & Urban Development Department