

\* **HIGH COURT OF DELHI : NEW DELHI**

+ **LPA No. 260 of 2003**

Judgment reserved on: April 20, 2010

% Judgment delivered on: May 05, 2010

Municipal Corporation of Delhi  
Through its Commissioner  
Town Hall  
Chandni Chowk  
Delhi.

...Appellant

Through: Ms.Maninder Acharya with  
Ms.Apurna Kothari & Ms.Mansi  
Gupta, Advs.

Versus

M/s. B&G Café Pvt. Ltd.  
A-574, Lado Sarai  
New Delhi-110030.

...Respondent

Through: Mr. N.S. Vasisht, Adv.

Coram:

**HON'BLE THE ACTING CHIEF JUSTICE  
HON'BLE MS. JUSTICE MUKTA GUPTA**

1. Whether the Reporters of local papers may  
be allowed to see the judgment? Yes
2. To be referred to Reporter or not? Not necessary

3. Whether the judgment should be reported  
in the Digest?

Not necessary

**MADAN B. LOKUR, ACJ**

The Appellant is aggrieved by an order dated 4<sup>th</sup> February, 2003 passed by a learned Single Judge in C.W. No. 5783/2000.

2. At the outset it may be stated that the learned Single Judge proceeded on the basis that the issue raised in the writ petition is fully covered by his judgment and order in *M/s. Holistic Farms Pvt. Ltd. v. MCD and others, 2003 (1) AD (Del) 491*. That judgment was subsequently appealed against by the Municipal Corporation in LPA No. 268/2003. We have today allowed the appeal of the Municipal Corporation and have held that the building bye-laws as on the date of consideration/sanction of the building plans is crucial. We have rejected the view that the date of submission of the application for sanctioning the building plans is relevant.

3. Insofar as the present case is concerned, the Respondent had applied for the sanction of its building plan on 1<sup>st</sup> May, 2000. Thereafter, on 15<sup>th</sup> May, 2000 the Respondent was informed that there

are certain deficiencies in the application. By the time the deficiencies were removed, the building bye-laws underwent a change on 7<sup>th</sup> June, 2000. The effect of this has been discussed by us in LPA No. 268/2003.

4. In view of the change in the building bye-laws, the application filed by the Respondent was rejected on 12<sup>th</sup> July, 2000. This rejection was challenged by the Respondent by filing a writ petition, which was allowed by the impugned order.

5. We find from the material on record that the building plans were rejected because they did not conform to the building bye-laws as on the date of consideration and also because some of the deficiencies pointed out on 15<sup>th</sup> May, 2000 were not removed.

6. We have held in *Holistic Farms* that if the application for sanction of building plans is not in accordance with the building bye-laws, it is liable to be rejected. In this appeal, since the application for sanction was not in accordance with the building bye-laws, it was rightly rejected by the Municipal Corporation.

7. Following our decision in LPA No. 268/2003, this appeal is allowed. The impugned judgment and order dated 4<sup>th</sup> February, 2003 in CWP No. 5783/2000 is set aside. No costs.

**(MADAN B. LOKUR)**  
**ACTING CHIEF JUSTICE**

**MAY 05, 2010**  
kapil

**(MUKTA GUPTA)**  
**JUDGE**

Certified that the corrected copy of the judgment has been transmitted to the main Server.