

**NEW DELHI MUNICIPAL COUNCIL**  
**PALIKA KENDRA : NEW DELHI.**

**COUNCIL'S MEETING NO. 02/2013-14 DATED 27.06.2013 AT 4-00 P.M.**

**Arrangement of business**

<b>ITEM NO.</b>	<b>SUBJECT</b>	<b>PAGE</b>	<b>ANNEXURE</b>
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03 (G-01)	New Settlement Scheme, 2013 for recovering pending outstanding electricity/water dues.	16 – 21	22 – 28
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05 (L-02)	Modification/Clarification in Estate Policy approved by the Council vide Reso. No. 9(L-1) dt. 30.9.2004 in respect of charging of security deposit from Govt. Departments.	38 – 41	
06 (D-01)	Conduct of Audit of New Delhi Municipal Council by C&AG.	42 – 47	48 – 56
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10 (K-01)	Scheme for improvement in working of Dhobi Ghats in NDMC area.	123 – 127	128 – 144
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**ITEM NO. 01 (C-04)**

Confirmation and signing of the minutes of the Council's Meeting No. 01/2013-14 held on 23.05.2013. (See pages 3- 6 )

**COUNCIL'S DECISION**

Minutes confirmed and signed.

**NEW DELHI MUNICIPAL COUNCIL**  
**PALIKA KENDRA : NEW DELHI**

**MINUTES OF THE COUNCIL'S MEETING NO. 01/2013-14 HELD ON 23.05.2013, AT 4-00 P.M.**  
**IN THE COUNCIL ROOM, PALIKA KENDRA, NEW DELHI.**

<b>MEETING NO.</b>	<b>:</b>	<b>01/2013-14</b>
<b>DATE</b>	<b>:</b>	<b>23.05.2013</b>
<b>TIME</b>	<b>:</b>	<b>4-00 P.M.</b>
<b>PLACE</b>	<b>:</b>	<b>PALIKA KENDRA, NEW DELHI.</b>

**PRESENT :**

- |    |                    |   |                   |
|----|--------------------|---|-------------------|
| 1. | Ms. Archana Arora  | - | Presiding Officer |
| 2. | Smt. Tajdar Babar  | - | Vice Chairperson  |
| 3. | Sh. Ashok Ahuja    | - | Member            |
| 4. | Sh. D. Diptivilasa | - | Member            |
| 5. | Sh. C.K. Khaitan   | - | Member            |
| 6. | Sh. Vikas Anand    | - | Secretary         |

ITEM NO.	SUBJECT	DECISION
01 (C-01)	Confirmation and signing of the minutes of the Council's Meeting No. 14/2012-13 held on 10.04.2013.	Minutes confirmed, by majority.
02 (E-01)	Administrative Approval and Expenditure Sanction of Rs.300 Lacs for procurement of Allopathic Medicines for the year 2013-14.	Resolved by the Council to accord administrative approval and expenditure sanction to the preliminary estimate amounting to `300 Lacs for purchase of Allopathic Medicines during the year 2013-14.  It was further resolved by the Council to accord approval to place supply orders every quarter, based on requirement during the

		<p>preceeding three months, with a provision to place a supplementary order in between if the need so arises, to the firms under the approved rate contract.</p> <p>It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.</p>
03 (B-01)	Annual Rate Contract for laying of 33KV, 400/300sq.mm/3C XLPE cables in & outside NDMC area.	<p>Resolved by the Council to accord approval to award the work of Annual Rate Contract for laying of 33 KV, 400/300 Sq.mm/3 Core, XLPE Cable in &amp; Outside NDMC area, to the following two firms being L-I &amp; L-II, in the ratio of 55% &amp; 45% respectively, computed on the basis of tendered cost of L-I firm amounting to `4,21,34,365/-on the terms &amp; conditions of NIT.</p> <ol style="list-style-type: none"> <li>1. M/s B.K. Power Enterprises for work amounting to `2,31,73,900.80 being 55% of the tendered amount at the rates quoted by the L-I firm.</li> <li>2. M/s Creative Entrepreneurs for work amounting to `1,89,60,464.20 being 45% of the tendered amount at the rates quoted by the L-I firm.</li> </ol> <p>It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.</p>
04 (A-01)	Construction of Old Age Home at Kali Bari Marg.	Resolved by the Council to accord permission for charging the expenditure of the Project "Construction of Old Age Home at Kali Bari Marg" from NDMC funds Scheme no. 21, [FC-73: AC:4124001], pending release of funds sought from GNCT of Delhi.

		It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.
05 (A-02)	Demolition of double storey/triple storey type-I flats at Aliganj. SH:- Survey Report.	<p>Resolved by the Council to accept the survey report with a written off amount of `40,27,680/- and reserve price of `(-) 6,51,415/- is accepted and be written off from the books on account of demolition of the existing structure.</p> <p>It was further resolved that the demolition of these units may be taken up only after providing alternate accommodation to the existing occupants.</p> <p>It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.</p>
06 (A-03)	S/R of roads in NDMC area. SH:Resurfacing of B.K.Dutt Colony, Aliganj Colony, Lodhi Colony, Jor Bagh Colony Road and other colony service roads in Sub Division-III area. (Part A Resurfacing work)	<p>Resolved by the Council to accord approval for acceptance of tender in favour of M/s. H.R.Builders for `3,70,82,423/- for the work of "S/R of roads in NDMC area. SH: Resurfacing of B.K.Dutt Colony, Aliganj Colony, Lodhi Colony, Jor Bagh Colony Road and other colony service roads in Sub Division-III area (Part A – Resurfacing work)".</p> <p>It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.</p>
07 (A-04)	Requirement of NDMC land on temporary basis to DMRC at Tolstoy Marg near Janpath crossing for the construction of Entry/ Exit of Janpath station for Central Secretariat to Mandi House Corridor.	<p>Resolved by the Council to accord approval to the following :-</p> <p>a) To issue NOC to DMRC for handing over of 1470 sq.m. land on temporary basis at Tolstoy Marg near Janpath Crossing for the</p>

		<p>construction of entry/exit of Janpath Station for Central Secretariat to Mandi House Corridor. The Council's approval is subject to the following :-</p> <ol style="list-style-type: none"> <li>1) The approval is subject to grant of permission and no objection by the L&amp;DO for the above.</li> <li>2) DMRC shall not use the walkways/platforms for any other commercial activities, including advertisement, hawkers, vending, kiosks etc. except with prior approval of NDMC.</li> <li>3) DMRC will restore the land temporarily allotted to the original status at the time of handing over, at their own cost after completion of the work and will return it to the NDMC free from encumbrances.</li> </ol> <p>b) It is also resolved by the Council that the necessary permission for regulation and prohibition on the Tolstoy Marg be accorded and Traffic diversion be regulated as per the permission of Delhi Traffic Police after issuing requisite public notice.</p>
08 (C-02)	Contracts/Schemes involving an expenditure of Rs.1 Lac but not exceeding Rs.200 lacs.	Information noted.
09 (C-03)	Action Taken Report on the status of ongoing schemes/works approved by the Council.	Information noted.
10 (A-05)	Name of Subject/Project: BSUP Project for construction of 240 E.W.S. dwelling units for slum at Bakarwala, Delhi under JNNURM Scheme. Sub Head: (A) Civil works	Resolved by the Council to accord approval for acceptance of the lowest tender of M/s. Aadhar Stumbh Township Pvt. Ltd and to award the work to M/s. Aadhar Stumbh

	'Construction of 240 E.W.S. du, facility centre and infrastructure work including external development work. (B) Electrical works 'Providing I.E.I., SCC, Meter Boards, Compound Lighting, Fans & Fixtures etc. (C) Providing / Fixing / Testing / Commissioning of Fire Fighting works. (D) Development of Horticulture works.	Township Pvt. Ltd with the tendered amount of `17,41,32,104.08 which is 14.86% below the estimated cost of `20,45,29,402/- and is 15.47% below the justified cost.  It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.
11 (S-01)	Issuance of Show Cause Notice to Shri Jag Jiwan Kumar Sood, the then A.E.(C), (Retired under deemed suspension) on conviction by the Court.	Resolved by the Council that Show Cause Notice under Rule-9 of CCS (Pension) Rules read with Rule 19(i) of CCS (CCA) Rules, 1965 and further read with Section 39(2) of NDMC Act for withdrawing complete pension and forfeiting the gratuity and other benefits including treatment of suspension period [w.e.f 20.06.05 to 01.11.06 and w.e.f 15.09.09 to 30.04.10 i.e. date of superannuation] as "Not spent on duty" as detailed in Para-5 of the agenda, be issued to Shri Jagjiwan Kumar Sood, the then A.E.(C), (retired) while under (deemed) suspension under signature of Director (Vigilance).
12 (M-01)	Amendment in dissolution clause of Memorandum of Association of Navyug School Educational Society.	Resolved by the Council that amendments in clause 26 of the Memorandum of Association as recommended by the department at the stance of the Income Tax Department is approved.  It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**Sd/-**  
**(VIKAS ANAND)**  
**SECRETARY**

**Sd/-**  
**(ARCHNA ARORA)**  
**CHAIRPERSON**





**ITEM NO. 02 (E-02)****1. Name of the subject/project.**

Registration of pharmaceutical firms for procurement of Allopathic Medicines for the next three years w.e.f. 18.06.2013.

**2. Name of the Department / Departments concerned.**

Health (Medical) Wing.

**3. Brief history of the subject / project.**

The Council vide its resolution no. OM (3)-xxxii) MOH dated 25.09.2001 adopted a policy of empanelment of firms engaged in the manufacturing of allopathic medicines for a period of five years fulfilling prescribed pre-qualifying criteria. This policy was implemented with effect from the year 2001-02. The pre existing empanelment of registered firms was approved vide resolution no. 22(E-05) 18.06.2008 (**Annexure A See pages 10 - 13**). The current registration of firms is valid till 17.06.2013.

**A. The Eligibility Criteria of the firms for Registration:-** The firm should have

1. Their own manufacturing facilities. Tolling of all type is forbidden.
2. The Annual turnover sale of the allopathic medicines of the firms should be Rs.50 crores or more during the last 3 years along with authentic/certified proof of allopathic medicine turnover. Annual allopathic medicines turnover will only be considered.
3. Possess a valid GMP certificate as per schedule M of the Drugs and Cosmetics Act and should also have a WHO and ISO 9001 & 9002 certificate.
4. Be having no pending income tax liability. Income tax clearance certificate from the authorized agency is mandatory. Copy of ITR for the last 3 years must be submitted.
5. Three years experience of supply of medicines to the government hospital/institutions.
6. Adequate facilities for quality control.
7. Submit no conviction and no pending conviction certificate

8. Submit certificate regarding the firms that the firm has not been blacklisted by any time by any government agency.
9. Be in the manufacturing business of allopathic medicines for the last 10 years. Enclose documents in support of the claim.
10. Copy of allotted TAN & PAN No. must be submitted.

**B. For categorization of pharmaceutical firms:** The firms are categorized as under

Group A Category	Annual Turnover of Rs.150 crores or more.
Group B Category	Annual Turnover between Rs.100 crores and Rs.144.99 crores.
Group C Category	Annual Turnover between Rs.50 crores and Rs.99.99 crores.

**4. Detailed proposal of the subject / project.**

A total of 56 firms responded to the department's advertisement for empanelment through press and NDMC website. The offers of the following 4 firms were rejected as they failed to fulfil the various mandatory pre-qualifying eligibility criteria prescribed under the rules. The details have been tabulated below:

S.No.	Name of Company	Reasons for not selection
1.	M/S Unijules life Science Ltd.	Manufacturing experience is less than 10 years
2.	M/S MSN Lab Ltd.	Manufacturing experience is less than 10 years
3.	M/S Brooks Lab Ltd.	Manufacturing experience is less than 10 years
4.	M/S Fourrts (India) Lab Pvt. Ltd.	Did not submit documentary evidence for supply of medicines to Govt. hospitals

The successful applicants were grouped into A, B, and C categories based on their annual turn over during the last three years. A comprehensive list is placed at **Annexure-B See pages 14 - 15.**

**5. Financial implications of the proposed project / subject.**

The said project does not have any direct financial implication at present, but the firms selected for empanelment will only be eligible to participate and compete in the annual tenders each year for finalization of the annual rate contract for procurement of allopathic medicines for next 3 years.

**6. Implementation schedule with timeliness for each stage including internal process.**

The firms will be empanelled for a period of 3 years. The tenders will be floated annually and the approved rate contract will be valid for a period of one year from the date of council's resolution. The supply orders will be placed quarterly and the supplies are required to be completed within a period of one month from the date of placing order to the firm.

**7. Comments of the Finance Department on the subject / project with diary number.**

The Finance vide diary No.851 dated 22.05.2013 has concurred the proposal for fresh registration.

**8. Comments of the Department on the comments of Finance Department.**

Nil

**9. Details of the previous Council Resolutions.**

Resolution No. OM(3)-xxxii) MOH dated 25.09.2001

Resolution No. 26(E-6) dated 19.12.2007

Resolution No. 22(E-05) dated 18.06.2008

**10. Legal implications of the subject/ project.**

Nil

**11. Comments of the Law Department on the subject / project.**

Nil

**12. Comments of the department on the comments of the Law Department.**

Nil

**13. Resolution:**

The proposal is placed before the Council for the approval of the registration of pharmaceutical firms for procurement of Allopathic Medicines for a period of 3 years w.e.f. 18.06.2013 **(Annexure B, See pages 14 - 15)**

**COUNCIL'S DECISION**

Resolved by the Council to accord approval of the registration of pharmaceutical firms for procurement of Allopathic Medicines for a period of 3 years w.e.f. 18.06.2013.

It was further resolved that instead of having 3 year period expiring midway, it was decided to have the period of registration valid upto 31.03.2016.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

Annexure 6 pages











Annexure ends

**ITEM NO. 03 (G-01)****1. Name of the Subject/Project :**

New Settlement Scheme, 2013 for recovering pending outstanding electricity/water dues.

**2. Name of the Department :**

Commercial Department

**3. Brief History of the subject/project :**

- i) Audit Deptt. has been time and again raising the issue of action for recovery of arrears of electricity and water from defaulting consumers. If we analyse the total arrears outstanding forty five percent pertains to principal and rest towards interest.
- ii) A Settlement Scheme was launched in December, 2007 vide Resolution No.20 (G-10) dated 19.12.07 to liquidate accumulated arrears of electricity and water charges. These arrears include accumulated principal demand + penal levies viz. misuse charges and late payment surcharge (LPSC). This scheme continued till 31.05.2010 (**Annexure – 'A' See pages 22 - 27**).

**4. Detailed proposal on the subject/project :**

- i) Every year inspite of best efforts, some of the collection remains outstanding, which at times is carried forward over the years. As on 31.3.2013, the accumulated arrears of electricity & water dues are to the tune of `145.97 crores (approx.). Category wise break up of these outstanding dues is given in enclosed

**Annexure – 'B' (See page 28).** At the same time, some amount of arrears are also involved in litigation at different levels and at times many of these cases are referred back to the Council for amicable settlement for pending dues.

- ii) The main aim of this proposal/scheme is to make efforts to liquidate the long pending dues of electricity and water charges by inducing consumers to pay their principal dues. The total arrears on account of electricity & water charges as on 31.3.2013 are about `145.97 crores, out of this an amount of `65 crores is towards principal and `80.97 crores towards Late Payment Surcharge (LPSC).

It is observed that payment of consumption charges at times gets delayed due to levy of LPSC and till the consumption charges are liquidated in total, the amount of surcharge keeps increasing.

It is, therefore, felt that with the implementation of this scheme, on approval by the Council, we would aim to realize outstanding principal dues of `65 crores towards electricity & water charges and part of Late Payment Surcharge and this would also enable us to set off arrears & LPSC reflected in our books.

- iii) A New Settlement Scheme, 2013 for clearance of the aforesaid arrears due upto 31.3.13 is proposed on following lines –

- (a) Where no principal dues are outstanding and only LPSC arrears are due as on 31.3.13 –

- I) 90% rebate in LPSC may be given, if balance 10% of LPSC dues is paid by the consumer(s) **by 31.8.13.**

II) 75% rebate in LPSC may be given, if balance 25% of LPSC dues is paid by the consumers **by 31.10.13.**

**(b)** In cases where Principal & LPSC both are due as on 31.3.13 –

I) 80% of LPSC may be allowed as rebate, if balance of 20% LPSC alongwith principal dues upto 31.7.13 is paid by 30.9.13.

II) 60% of LPSC may be allowed as rebate, if balance of 40% LPSC alongwith principal dues upto 30.10.13 is paid by 31.12.13; and

III) 40% of LPSC may be allowed as rebate, if balance of 60% LPSC alongwith principal dues upto 31.01.2014 is paid by 31.03.14.

The above rebates would be worked out only after adjusting payment received, if any, till due dates at I, II & III.

**(c)** In case of consumers being department of Govt. of India or Govt. of NCT of Delhi or State Government, if there are no arrears of consumption charge or if there are consumption charges upto 31.07.13 and the same are paid by 30.09.2013, there would be 100% rebate in LPSC.

**(d)** We cannot deny the possibility of consumers with arrears in litigation coming forward to clear up their dues as Surcharge/LPSC form in many cases may a sizeable portion of pending dues and such cases may also be covered as per the proposed scheme above.

**(e)** If any other case is still not covered under above clauses, the Chairperson, NDMC may be empowered to settle such case(s) or by setting up a Committee for

settlement of disputes. Further, if the Scheme is found to be working successfully or its extension is considered essential, the same may be done with the approval of the Chairperson.

- (f) The above Scheme would be available to the consumers with arrears, who come forward and apply for rebate, as provided in the policy. However, in any case such requests should be received in the office of Accounts Officer (Billing or Bulk), Commercial Department at least 3 days prior to the last date indicated in para 4 (iii) (a & b) above.

In all cases where either principal or LPSC or both is outstanding in case of private consumer or Government Department, either for electricity or water connections, then in such case(s) disconnection action for respective electricity/water connection would be taken without any further reference to the consumer and for which the responsibility would be entirely that of the consumer concerned.

#### **5. Financial Implication of the proposal/subject :**

The amount of present arrears comprises of principal demand and Late Payment Surcharge accumulated thereon. Surcharge is not towards consumption of electricity/water by the consumer but a sort of penalty for delay in payment. The Scheme is to reduce the infructuous demand reflected in NDMC books. The basic purpose of this Settlement Scheme is to recover the principal demand to the maximum possible, so as to liquidate arrears. This may also help the Government Departments to clear their arrears as payment of Late Payment Surcharge is objected to in government departments as a whole, resulting in outstanding dues.

**6. Implementation schedule with timeliness for such stage including internal proceedings :**

Time Lines proposal in para 4 (iii) would be adhered to.

**7. Comments of the Finance Department on the subject :**

The Commercial Department has submitted a proposal for introduction of a New Settlement Scheme, 2013 for recovering pending outstanding of Electricity and Water dues which amount to `145.97 crores as on 31.3.2013. Out of this an amount of `65 crores is towards Principal and `80.97 Crores is towards Late Payment Surcharge (LPSC); some amount of these arrears are also involved in litigation at different levels. Finance Department has no objection to the proposal :- New Settlement Scheme 2013 for recovering pending outstanding electricity and water dues subject to the following:-

1. Principal dues should not be waived or reduced.
2. The amount (Principal as well as LPSC) under litigation may be brought on record and the said case may be brought to logical conclusion in the best interest of NDMC.
3. The response of the Scheme launched in 2007 by the Commercial Department may also be brought on record in respect of pending dues as on that date and recovery as a consequence of the settlement policy of 2007.
4. The recommendation of the Department in the Agenda may also be revised as "Proposal contained in Para 4 (iii) (a to f) of the Agenda is put up for consideration of the Council, in place of para 4(iii) a to d)".
5. While settling up accounts of individual consumers, dues paid, should first be applied against the Principal demand followed by Late Payment Surcharge (LPSC).
6. Time frame proposed, be strictly adhered to and Clause 4(iii) (f) in respect of disconnection action for respective Electric/Water connection would be taken without any further reference to the consumer.



The case has been concurred by Finance Department vide Diary No.FD-879 dated 18.05.2013.

**8. Comments of the Department on the comments of Finance Deptt.:**

Replies to the same are given below:-

1) Principal dues will not be waived off or reduced.

2) Status of litigation cases are given below : –

No. of cases : 31

Amount involved : ` 16,08,46,928.41

(Principal ` 2,53,41,640.95 Surcharge `13,55,05,287.50)

Efforts would be made to bring these cases of logical conclusion without compromising of interest of NDMC.

3) Response to Settlement Scheme launched in the year 2007 is given as below :-

Amount in arrears in Nov., 2007 : `116.324 crores.

(17587 cases )

Recoveries made till 31.5.2010 : `2.08 crores against demand of `5.76 crores {151 cases}. (Till date the scheme was extended)

4) Recommendations of department would be for approval of the Council for proposal contained in para 4 (iii) (a to f).

5) As advised by Finance while settling of accounts of individual consumers dues paid would be first adjusted against principal demand followed by LPSC.

6) Time frame provided in the proposal and follow up action for disconnections subsequent to closer of the scheme would be adhered to.

**9. Final comments of the Finance Department (if any) :**

Finance Department has concurred the proposal of the Department.

**10. Legal implication of the subject :**

N.A.

**11. Details of previous Council Resolution on the subject :**

As indicated in para 3 above.

**12. Comments of Law Department :**

It is a proposal to collect the consumption charges and give rebate in late payment surcharge, if the charges & part of LPSC is paid by due dates. This is on the lines Council had such proposal in Estate & Tax Dett. pl. May like to concur. {Dy. No.R-309/Adv.(R&L) dated 17.5.13}

**13. Comments of the Departments on the comments of Law Deptt.:**

No comments.

**14. Final comments of Law Department (if any) :**

Law Department has concurred the proposal of the Department.

**15. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case :**

N.A.

**16. Recommendations :**

Proposal contained in para 4 (iii) (a to f) of the agenda is put up for consideration of the Council.

**17. Draft Resolution :**

**COUNCIL'S DECISION**

Resolved by the Council to accord approval to the proposal of the department contained in para 4 (iii) (a to f) of the agenda.

It was further directed that on expiry of the scheme period, strict action against all defaulters needs to be taken by the Department.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

Annexure 7 pages













Annexure ends

**ITEM NO. 04 (L-01)****1 Name of the Subject:**

MORATORIUM PERIOD IN RESPECT OF DILLI HAAT, INA, A JOINT VENTURE OF NDMC AND DTTDC.

**2 Name of the Department:**

Estate-I Department

**3. Brief History of the Subject:**

A piece of land measuring 300 mtr. length and 100 mtr. width (6 acres approx.) was made available with NDMC after covering of Kushak Nalah at Sri Aurobindo Marg, New Delhi. On the request of DTTDC, NDMC allotted the land for construction and running of a Food and Crafts Bazar as a tourist oriented venture on the pattern of the one in Singapore.

The licence was renewed from time to time as per mutually agreed terms & conditions.

Lastly the term of licence was renewed wef 1.4.2011 to 31.3.2021, on following terms as per approval of Council vide Reso. No. 07 (L-02) dt. 13.9.2011 (**Annexure-I See pages 32 - 35**)

- i) The licence fee be fixed at a minimum of Rs.1 crores per annum (payable at `25 lacs per quarter) or 60% of receipt from sale of entry tickets whichever is higher.
- ii) Licence fee for parking lot be fixed at Rs.10,000/- per month to be increased by 10% per annum.
- iii) There shall be a clause in licence deed that DTTDC would not reduce the current entry fee without approval from NDMC.
- iv) The remaining terms & conditions for renewal of licence would be same as provided in the previous licence deed in so far as they do not contradict the conditions stated above.

**4. Detailed proposal on the Subject:**

- i) Delhi Tourism & Transportation Development Corporation Ltd has been requesting NDMC to allow them to pay 50% of entry charges collected by them

since footfall has reduced due to ongoing DMRC work resulting in reduction in their revenue.

- ii) The issue was discussed in the meeting chaired by Chairperson, NDMC on 5.6.2013 wherein DTTDC clarified that they are requesting for a moratorium on enhancement of proposed licence fee for the period during which DMRC would undertake construction work in the area. They have also informed that DMRC has taken over 25 craft stalls, 04 food stalls and parking area resulting in loss of around ` 40 lacs per annum to DTTDC. Considering the facts, it was agreed in principle to give DTTDC moratorium for revised licence fee initially for two years as they were prepared to accept the original decision of the Council regarding sharing of licence fee (60:40). Copy of the minutes of the meeting dt. 5.6.2013 enclosed as **Annexure-II See pages 36 - 37.**
- iii) Estate Department may sign a separate agreement for moratorium to be effective from 1.4.2013 to 31.3.2015 during which DTTDC will pay @ 50% of gate money or `1 crore whichever is higher. This moratorium would initially be for two years or till the work of DMRC is completed or till the original status is restored which ever is earlier after which DTTDC will revert back to the terms decided by the Council.

**5. Financial implication of the proposed Subject:**

The purpose of the agreement is that DTTDC will retain revenues from structures and 40% of gate money. When revenue from internal structure is going to reduce, DTDC will have to depend more on gate money, hence this temporary adjustment.

**6. Implementation schedule with timeliness for each stage including internal processing:**

As indicated in Para-4

**7. Comments of the Finance Department on the subject with diary number and date:**

The Finance Deptt. requested the department to explore the possibility of recovering the deficit from DMRC instead of granting moratorium for the Agency (DTTDC).

**8. Comments of the Department on comments of Finance Department:**

The issue of moratorium was discussed with DTTDC in the meeting taken by the Chairperson on 05.06.2013. Copy of the minutes is placed at **Annexure II.**

**9. Final Comments of the Finance Department :**

Discussed with Chairperson, the possibility of recovering the deficit from DMRC can be taken up separately with DMRC. We may go ahead with the directions of the Chairperson to place the agenda in the Council Meeting, as decided in the minutes of Meeting held on 5.6.2013.

**10. Legal implication of the subject:**

N.A.

**11. Details of previous Council Resolutions on the subject:**

As mentioned in Para-3 above.

**12. Comments of the Law Deptt on the Subject:**

Law Department has concurred to the proposal of the department.

**13. Comments of the Department on the comments of the Law Deptt:**

N.A.

**14. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

Not applicable

**15. Recommendations:**

The Estate-I Department recommends as under:-

- a) As requested by DTTDC a moratorium for enhanced licence fee in terms of approval of the Council vide Reso. No.07 (L-02) dt. 30.9.2011 may be given for a period of two years i.e. from 1.4.2013 to 31.3.2015 during which DTTDC will pay licence fee @ 50% of receipt from sale of entry tickets or `1 crore whichever is higher. This would be through a separate agreement. The licence fee as per terms of Council decided vide Reso. No.7 (L-02) dt. 30.9.2011 fixed at a minimum of ` 1 crores per annum payable @ ` .25 lacs per quarter or 60% of receipt from sale of entry tickets whichever is higher would continue thereafter.

- b) The moratorium would be for two years or till the work of DMRC is completed or till the original status is restored by DMRC whichever ever is earlier and after that DTTDC will revert back to the original agreement as decided by the Council i.e. 60% of receipt of entry ticket or ` 1 crores per annum whichever ever is higher.

#### **COUNCIL'S DECISION**

Resolved by the Council to accord approval, for moratorium on enhanced licence fee in terms of approval of the Council vide Reso. No.07 (L-02) dt. 30.9.2011 for a period of two years i.e. from 1.4.2013 to 31.3.2015 during which DTTDC will pay licence fee @ 50% of receipts from sale of entry tickets or `1 crore whichever is higher. This would be through a separate agreement. The licence fees as per terms of Council decided vide Reso. No.7 (L-02) dt. 30.9.2011 fixed at a minimum of ` 1 crore per annum payable @ `25 lacs per quarter or 60% of receipt from sale of entry tickets whichever is higher would continue thereafter.

It was further resolved by the Council that the moratorium would be for two years or till the work of DMRC is completed or till the original status is restored by DMRC whichever ever is earlier and after that DTTDC will revert back to the original agreement as decided by the Council i.e. 60% of receipt of entry tickets or `1 crore per annum whichever ever is higher.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

ITEM NO. 07 (L-02)/13.09.2011**1 Name of the Subject:**

Renewal of Licence Agreement with DTTDC for Dilli Haat, INA.

**2 Name of the Department:**

Estate-I Department

**3. Brief History of the Subject:**

A piece of land measuring 300 mtr. length and 100 mtr. width (6 acres approx.) was made available with NDMC after covering of Kushak Nalah at Sri Aurobindo Marg, New Delhi. On the request of DTTDC, NDMC allotted the land for construction and running of a Food and Crafts Bazar as a tourist oriented venture on the pattern of the one in Singapore.

As per licence agreement duly executed between NDMC and DTTDC on 28.3.1992, DTTDC were to construct shops, stalls etc at the licensed premises on their own and also to look after supervision etc. of the constructed stalls/kiosks duly constructed as per approved plans provided by the licensee. The licence for use of the space was for the period from 15.6.1992 to 14.6.1997 and to be renewed at the discretion of the licensor NDMC on terms and conditions to be settled mutually between the parties.

As per terms of the licence the licensee was to pay to the licensor a sum of Rs.1 lac per annum as minimum guaranteed licence fee wef 15.6.1992 plus 50% of the net profit earned by the licensee from the date of commencement of the actual operation of venture.

The licence was renewed from time to time as per mutually agreed terms & conditions. Since audited accounts were not mostly available on time and since there were disputes about gross revenues & tax liability, it was decided during negotiations for subsequent renewals that in place of 50% of net profit, 50% of proceeds from gate fees shall be paid to the licensor.

Last licence deed was executed between NDMC & DTTDC on 12.05.07 for the period w.e.f. 01.04.2006 to 31.03.2011 subject to that licensee shall pay to the licensor a sum of Rs.1.50 lacs per annum plus 50% of the sale of entry tickets of Dilli Haat per annum. Based on this, the licence fee received are as at **Annexure "A"**. The licensee shall also pay a sum

of Rs.8000/- per month as licence fee for 130 sq. mtr area of parking lot. For renewal of licence, several discussions were held with DTTDC officials for increasing licence fee as NDMC should get optimal returns from the licensed plot.

**4. Detailed proposal on the Subject:**

The term of licence has expired and needs to be renewed w.e.f. 01.04.2011 for a further period of ten years. Clause No. 3 of licence deed states that licence shall be for a period of ten years w.e.f. 01.04.2001 to 31.03.2011 and may be renewed at the discretion of the licensor. Considering the established property, the assistance provided by Dilli Haat project to artisans & craftsmen as also its massive contribution towards recreation and tourism development. It is now proposed as under:

1. 50% share of NDMC in last five years was Rs. 94.2 lacs. The licence fee for the period 01.04.2011 to 31.03.2021 be fixed at a minimum of Rs. 1 crore per annum payable at Rs. 25 lacs per quarter or 60% of receipt from sale of entry tickets whichever is higher.
2. Licence fee for parking lot be fixed at Rs. 10,000/- per month to be increased by 10% per annum.
3. Any delay in payment of licence fee would attract interest at the rate fixed by the Council from time to time.
4. There shall be a clause in licence deed that DTTDC would not reduce the current entry fee without approval from NDMC.
5. The remaining terms and conditions for renewal of licence would be same as provided in the previous licence deed insofar as they do not contradict the conditions stated above.

**5. Financial implication of the proposed Subject:**

This is a revenue generating proposal and does not involve any expenditure.

**6. Implementation schedule with timeliness for each stage including internal processing:**

N.A.



**7. Comments of the Finance Department on the subject with diary number and date:**

Finance has seen and concurred vide diary No. 1706/PS/FA/11 dt. 08.09.2011.

**8. Comments of the Department on comments of Finance Department:**

No comments.

**9. Legal implication of the subject:**

No legal implications involved.

**10. Details of previous Council Resolutions on the subject:**

N.A.

**11. Comments of the Law Deptt on the Subject:**

Law has seen and concurred vide diary No. R-754/Adv. (R&L) dt. 08.09.2011.

**12. Comments of the Department on the comments of the Law Deptt:**

No comments

**13. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

All C.V.C. guidelines have been followed.

**14. Recommendations:**

Estate –I Department recommends that the proposal may be kept before the Council for decision on the following points:-

The term of licence will be renewed in favour of DTTDC, Dilli Haat, INA for a period of ten years w.e.f. 01.04.2011 to 31.03.2021 on terms proposed as under.

1. The licence fee be fixed at a minimum of Rs. 1 crores per annum payable at Rs. 25 lacs per quarter or 60% of receipt from sale of entry tickets whichever is higher.

2. Licence fee for parking lot be fixed at Rs. 10,000/- per month to be increased by 10% per annum.

3. Any delay in payment of licence fee would attract interest at the rate fixed by the Council from time to time.

4. There shall be a clause in licence deed that DTTDC would not reduce the current entry fee without approval from NDMC.

5. The remaining terms and conditions for renewal of licence would be same as provided in the previous licence deed insofar as they do not contradict the conditions stated above.

#### **15. Draft Resolution**

Resolved by the Council to accord approval for the following:

1. The licence fee be fixed at a minimum of Rs. 1 crores per annum payable at Rs. 25 lacs per quarter or 60% of receipt from sale of entry tickets whichever is higher.

2. Licence fee for parking lot be fixed at Rs. 10,000/- per month to be increased by 10% per annum.

3. Any delay in payment of licence fee would attract interest at the rate fixed by the Council from time to time.

4. There shall be a clause in licence deed that DTTDC would not reduce the current entry fee without approval from NDMC.

5. The remaining terms and conditions for renewal of licence would be same as provided in the previous licence deed insofar as they do not contradict the conditions stated above.

#### **COUNCIL'S DECISION**

Resolved by the Council to accord approval for the following:

1. The licence fee be fixed at a minimum of Rs. 1 crores per annum (payable at Rs. 25 lacs per quarter) or 60% of receipt from sale of entry tickets whichever is higher.

2. Licence fee for parking lot be fixed at Rs. 10,000/- per month to be increased by 10% per annum.

3. There shall be a clause in licence deed that DTTDC would not reduce the current entry fee without approval from NDMC.
4. The remaining terms and conditions for renewal of licence would be same as provided in the previous licence deed in so far as they do not contradict the conditions stated above.

It was also resolved by the Council that the rate of interest to be charged on delayed payment should also be clearly specified in the agreement.

**ANNEXURE II****MINUTES OF THE MEETING HELD ON WEDNESDAY, 5TH JUNE, 2013 AT 4.30 P.M. IN THE CHAMBER OF CHAIRPERSON, NDMC ON VARIOUS ISSUES PERTAINING TO DTTDC.**

The list of Officers present in the meeting is placed at Annexure – 'A'.

Issues raised by DTTDC were taken up for discussion and decisions were taken:-

- (i) Proposal for construction of parking lot-cum-office space was discussed at length when it was reiterated by NDMC that the land belongs to NDMC and DTTDC has already been provided alternate space for Coffee Home at Shaheed Bhagat Singh Place, which is being used for running a restaurant. During the last meeting held on 05.09.11 on the subject it was informed that NDMC has already constructed a multi level parking on Baba Kharak Singh Marg, very near to the proposed site. It was then decided that feasibility needs to be checked and DTTDC was to send a formal note giving all aspects related to the issue for better understanding of the facts viz-a-viz present requirement of NDMC, which is still awaited.
  
- (ii) As regards signing of the agreement for Dilli Haat at INA is concerned, DTTDC informed that they were willing to accept the terms decided by the Council and communicated to them (60:40) but for the period during which DMRC work is in process. It was informed that DMRC has now taken over few craft and food stalls alongwith parking area and therefore, moratorium for enhanced Licence Fee be provided for the period during which DMRC work would be process.

NDMC pointed out that as per information provided by DTTDC, there is no decrease in gate money received during 2011-12 & 2012-13. However, considering the facts

moratorium on enhancement of LF could be considered for a period of two years i.e. from 01.04.13 to 31.03.2015 or till the work of DMRC is over or area restored back to its original form, whichever is earlier.

- (iii) Issue of requirement of alternate parking space due construction of Metro work at Dilli Haat was discussed. Request of DTTDC to allow use of parking space of Shadi Ground behind Dilli Haat was agreed in principle subject to the condition that space will not be available on days of booking of Shadi Ground and will be on payment basis. Necessary modalities in this regard would be worked out by Director (Enforcement), NDMC.
- (iv) Renovation of Transport Office adjoining Dilli Haat be taken up by DTTDC but, if any, addition etc. is proposed, necessary approvals of Architect Department of NDMC would be required.
- (v) As far as signing of MOU for space at Shaheed Bhagat Singh Place is concerned, it was informed that the issues have been resolved and document would be signed by 15.06.13.

Meeting ended with vote of thanks to the Chairperson.

\*\*\*\*\*

**ITEM NO. 05 (L-02)****1 Name of the Subject:**

Modification/Clarification in Estate Policy approved by the Council vide Reso. No. 9(L-1) dt. 30.9.2004 in respect of charging of security deposit from Govt. Departments

**2 Name of the Department:**

Estate-I Department

**3. Brief History of the Subject:**

- i. Disposal of immovable properties is governed by section-141 of the NDMC Act. This is being regulated as per the guidelines issued by the Council from time to time.
- ii. In Resolution No.9(L-1) dated 30.09.2004, while considering their recovery position of the Estate Department, the Council suggested that the licensee should deposit a bank guarantee of eight months licence fee in addition to the licence fee in advance being paid by the licensee.
- iii. This bank guarantee was being insisted upon on the licences being renewed or issued after the said date.

**4. Detailed proposal on the Subject:**

- i. In respect of the Govt. Departments, it has been found that the departments are not in a position to give bank guarantee or security in cash/DD as insisted upon and as such this condition of collection of the eight months licence fee as security is for reconsideration of the Council. In one of the cases, the CAG has observed that since the payment is being made from one Govt. department to another Govt. department, the bank guarantee should not be insisted upon by the NDMC.
- ii. In view of the above, it is for consideration of the Council that NDMC should not insist for a bank guarantee or other security from on the Govt. departments such as Central Government departments or their undertakings; the Delhi Govt. or its undertakings & any autonomous body fully funded by Government. This shall however, not be applicable to Govt. companies or undertakings run as commercial undertakings.

- iii. The licensee/Govt. Deptts. will be required to pay the two months advance LF and wherever they default in the payment of the LF, they will be required to pay interest, at the rate being fixed by the Council from time to time. Chairperson may however, reduce or waive the interest, if the licensee suitably explains delay in payment of licence fee, which will be applicable for Govt. Deptts. only.
- iv. Normally, Govt. departments delay the payment of LF for want of Budget and as such if the LF is deposited for the entire financial year by September, the licensee shall be entitled to rebate of 5 % of the LF being paid and no interest shall be charged from 1<sup>st</sup> April to 30<sup>th</sup> September as aforesaid, and if it is charged, it shall be waived.
- v. Auction of properties take sufficient time and as such in respect of the properties being given on licences to the Govt. departments or its undertakings, the Council may authorize the Chairperson to negotiate Licence Fee on mutually agreed terms and not on the basis of auction rates of the property. It shall be ensured the Licence Fee being claimed is a competitive rent.

**5. Financial implication of the proposed Subject:**

- i. Though, there is no direct financial implication normally the security deposit received is invested by the Finance Department and therefore, waiver of the condition for deposit of 8 months licence fee as security deposit may result in loss of some interest to the organization. However, in case of delay in depositing of security deposit results in delay in handing over of possession of the area thereby resulting in revenue loss to NDMC.
- ii. Further, in case Government Departments are willing to make annual payments in advance, then it may result in receipt of huge revenue in advance which could further be invested by the Finance Department and may help us to offset aforesaid loss.

**6. Implementation schedule with timeliness for each stage including internal processing:**

Immediately in case of approval of Council.

**7. Comments of the Finance Department on the subject with diary number and date:**

- i. Finance has no objection to the proposal to modify the condition of advance deposit of 8 months licence fee as non-applicable to govt. Ministries/Departments. However, the category of autonomous/statutory bodies fully funded by govt. may also be added in para 14(a).
- ii. Proposal to give 10% rebate for advance deposit of annual licence fee seems too high and be kept at 5% level considering the interest rates in the economy, as it will be having huge financial implication.
- iii. Sub-paras may be suitably numbered in the draft agenda.

**8. Comments of the Department on comments of Finance Department:**

Necessary amendments in agenda have been made and sub-paras have been numbered. Further Estate-I Departments agrees to the suggestion given by Finance Department to keep rebate for advance deposit of annual licence fee at 5%.

**9. Final Comments of the Finance Department (If any):**

Finance Department has concurred the proposal of Department.

**10. Legal implication of the subject:**

Not applicable.

**11. Details of previous Council Resolutions on the subject:**

Not Applicable.

**12. Comments of the Law Deptt on the Subject:**

Such guidelines are permissible under Section 141 of the Act and may be placed before the Council for acceptance.

**13. Comments of the Department on the comments of the Law Deptt:**

N.A.



**14. Final Comments of Law Department, (If any):**

NA

**14. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

N.A.

**15 Recommendations:**

- a) Requirement of deposit of 8 months licence fee as security deposit may not be applicable in case of spaces allotted to the Ministries/ Departments/Subordinate Offices of Govt. of India; Govt. of NCT of Delhi & Autonomous Bodies fully funded by Government except Public Sector Undertakings or Offices/Departments/Undertakings having commercial activities.
- b) All Government licensees may be allowed to deposit advance licence fee for the year in the event of which they may be given a rebate of 5 % on annual payment of licence fee in lieu of 2% rebate on timely payment of licence fee every month. However, for availing 5 % rebate the licensee will have to deposit annual licence fee in one go by 30<sup>th</sup> September of each year and not in installments. Council further authorizes Chairperson to workout licence fee with Government Departments on mutually agreed terms, while doing so it shall be ensured that the licence fee being fixed will be competitive.

**16. Draft Resolution:**

Council resolved to approve the recommendations of the Department as contained in Para 15 of the agenda.

**COUNCIL'S DECISION**

Resolved by the Council to approve the recommendations of the Department as contained in Para 15 of the agenda.

**ITEM NO. 06 (D-01)****1 Name of the Subject:**

Conduct of Audit of New Delhi Municipal Council by C&AG.

**2 Name of the Department:**

Finance Department

**3. Brief History of the Subject:**

- (i) The New Delhi Municipal Council has been established under Section 3 of the NDMC Act, 1994, an Act of Parliament Chapter VII of the Act deals with Revenue and Expenditure of the Council. Section 58 & 59 exclusively deals with the 'Accounts and Audit Scrutiny and Audit of Accounts'. Section 59 of the Act, further defines the role, functions and powers of the Chief Auditor, in a very comprehensive manner and all aspects of the audit and accounts, which can be expected to be audited have been entrusted to the Chief Auditor.
- As per Recruitment Regulations framed by the Council, u/s 43 of the NDMC Act-1994, approved by UPSC and Central Govt. and notified by the Govt. of NCT of Delhi, the Chief Auditor, taken on deputation, has to be an officer from the Audit Cadre of CAG. His role and function have been specified in Section 59 and he is appointed, in terms of the said section with the prior approval of Administrator/Lt. Governor of Delhi

- (ii) Sub-section (2) of the Section 59 provides that the Chairman may also, from time to time, and for such period as he may think fit, conduct independently any examination and audit of the accounts of the Council.
  
- (iii) Sub-section (19) of Section 59 provides that the Chairperson shall forward without delay to the NCT of Delhi copies of the Audit Reports with a brief statement of the action taken or proposed to be taken. Proviso to this section also provides that the Government of NCT of Delhi may at any time appoint auditor for the purpose of making a special audit of the general accounts of the NDMC and report there on to the Government of NCT of Delhi. The Auditor so appointed shall also exercise the same powers as are exercised by the Chief Auditor of NDMC. Thus, the NDMC Act provides for independent audit by the Chairperson and a special audit by the Govt. of NCT of Delhi.
  
- (iv) There is no other provision in the NDMC Act, 1994 under which any audit other than mentioned in Section (59) can be conducted by any other authority.
  
- (v) On receipt of the requisition from AG (Audit), New Delhi for audit in NDMC, the said legal position of conducting audit under the NDMC Act 1994 was earlier communicated by NDMC to AG (Audit) New Delhi vide letter dated 15.07.2010 (**Annexure-I See pages 48 - 49**) and to MHA vide letter dated 24.08.2010 (**Annexure-II See page 50**) and also to the Govt. of NCT of Delhi vide letter dated 15.12.2010 (**Annexure-III See page 51**)

- (vi) It seems that as per Article 151 of the Constitution of India, the reports of the Comptroller & Auditor General of India relating to Accounts of a State shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.
- (vii) No further communication was received from AG (Audit) Delhi and from the Govt. of NCT of Delhi after the NDMC reply sent in 2010 which gave an impression that after taking into consideration provision of the Act and Article 151 (2) of the Constitution, the matter was closed.

**4. Detailed proposal on the Subject:**

- (i) In between, MHA has suggested to AG (Audit), Delhi for undertaking inspection/audit of NDMC departments or any service/work undertaken by it. NDMC has received a letter dated 19.09.2012 from the Ministry of Home Affairs (**Annexure-IV See page 52**) directing NDMC that in the light of the provision contained in the NDMC Act-1994, NDMC should allow inspection/audit of its departments or office or any service or works undertaken by it etc. by the officers of the C&AG of India for the purpose of carrying out audit. In addition to it, a copy of the DO letter dated 28.09.2012 of Jt. Secretary, MHA addressed to DG (Audit) Delhi (**Annexure-V See page 53**) has also been received in which JS, MHA has requested DG (Audit), New Delhi to proceed with the audit of

NDMC and to bring any difficulties to the notice of the Ministry, if faced in conducting of audit.

- (ii) In these two letters issued by the MHA the decision of conducting the audit of NDMC by the CAG of India has been mentioned to be based upon the provision of NDMC Act, 1994. Whereas, there seems to be no such provision existing in the said Act. In between AG (Audit) Delhi in his letter dt. 23.04.2010 (**Annexure-VI See page 54**) has only asked for the manpower audit of NDMC. The manpower audit has already been taken up by the Chief Auditor of NDMC.
- (iii) In May, 2013 Principal Accountant General (Audit) vide her D.O. letter dt. 02.05.2013 to Chairperson, NDMC has informed that they proposed to conduct a "Thematic Audit' of Capital Expenditure relating to Electricity, Roads & Pavements and Municipal Markets of New Delhi Municipal Council".
- (iv) On receipt of this letter a reference was made to the Principal A.G (Audit), Delhi requesting to provide necessary orders of Govt. of NCT of Delhi or Lt. Governor as applicable, under Section 59 (19) of NDMC Act, 1994 so as to enable NDMC to process their audit proposal expeditiously. However, in response to this letter Principal AG (Audit) Delhi again wrote to Chairperson vide her D.O. Letter dt. 09.05.2013 (**Annexure-VII See page 55**) mentioning that under Section 15 (19) of NDMC Act, 1994. The Delhi

Government may appoint an auditor for making a 'Special Audit' of the general accounts of the New Delhi Municipal Fund whereas they planned to have a Thematic Audit on the subject cited above for the period 2010-13. In this letter, it was also mentioned that C&AG of India has been mandated to conduct audit of the NDMC under Section 14(2) of the C&AG of India (DPC) Act, 1971, as corporation receives substantial grand-in-aid from the Delhi Government. In this letter, it has also been mentioned that the approval of the President in this regard has already been received vide letter No. H-14011/25/89-Delhi dt. 18<sup>th</sup> December, 1989 (**Annexure-VIII See page 56**) followed by subsequent reminders of Ministry of Home Affairs in 2012-13. The matter as it exists was again examined in consultation with the Chief Auditor. It is observed that the letter conveying sanction of the President pertains to the period when New Delhi Municipal Committee was governed under Punjab Municipal Act, 1911. However, with the enactment of New Delhi Municipal Council Act, 1994 the only enabling provision on the issue is **Section 59 (19) which provides:**

**"The Government (meaning Govt. of Delhi) may at any time appoint auditor for the purpose of making a special audit of the General Account of the New Delhi Municipal Fund. The auditor so appointed may exercise any power which the Chief Auditor may exercise".**

(v) Further, it may also be mentioned here that **NDMC also does not fall within the definition of 'Substantially Financed Body'** in terms of C&AG (DPC) Act, 1971 as the grants received are far less than 75% of the total expenditure.

(vi) It may also be mentioned here that **no grant-in-aid was received under Electricity, Roads & Pavements or Municipal Markets Sectors during the period 2010-2013** for which audit is proposed to be conducted.

**5. Financial implication of the proposed Subject:**

No financial implication is involved

**6. Implementation schedule with timeliness for each stage including internal processing:**

N.A.

**7. Comments of the Finance Department on the subject with diary number and date:**

Finance Department has given concurrence to the proposal vide Diary No.916/Finance dated 29.05.2013.

**8. Comments of the Department on comments of Finance Department:**

No comments.

**9. Final Comments of the Finance Department (If any):**

N. A.

**10. Legal implication of the subject:**

As discussed in para 3 & 4.

**11. Details of previous Council Resolutions on the subject:**

N.A.

**12. Comments of the Law Deptt on the Subject:**

These are accounts of the Council. It is suggested that the matter may be placed before the Council for their direction. In the meantime inform DAG to wait clearance from Council.

**13. Comments of the Department on the comments of the Law Deptt:**

N.A.

**14. Final Comments of Law Department, (If any):**

NA

**15. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

N.A.

**16. Recommendations:**

Section 44(2) provides that "New Delhi Municipal Funds shall be held by the Council in trust for the purposes of this Act subject to the provisions herein contained and a General Account relating to all moneys received by on or behalf of the Council shall be maintained."

Therefore, considering the facts as brought out above matter is placed before the Council for directions in the matter.



**17. Draft Resolution:****COUNCIL'S DECISION**

The facts of the case were explained by the Chief Auditor. The issue was deliberated at length and it was unanimously resolved that a reference may be made to the Chief Secretary, GNCTD, giving facts of the case and seeking further directions.

Annexure 9 pages

















Annexure ends

**ITEM NO. 07 (L-03)****Report on agenda item regarding operation and maintenance of five star hotel property at 1, Man Singh Road, New Delhi, placed before the Council vide Item No. 07 (L-05) in its Meeting held on 26<sup>th</sup> March, 2013**

The agenda on the operation and maintenance of five star hotel premises at 1, Man Singh Road after the extended period on 10<sup>th</sup> October 2012 was placed before the Council in its meeting on 26<sup>th</sup> March 2013 (**Annexure I See pages 63 - 67**) which was postponed for 10<sup>th</sup> April 2013. The proposal was to accept the RFP prepared by Earnest and Young consultant engaged by the N.D.M.C. for the purpose of putting the hotel premises to auction with first right of refusal to IHC to maximize the annual licence fee from the premises.

2. The agenda was discussed and deliberated in detail and the Council resolved as under:-

***"After detailed resolution, the Council, by majority decided to wait for copy of the orders in the pending court cases and thereafter the matter would discussed in its Special meeting of the Council."***

This note is to comply with the directions of the Council.

3. The Council in its meeting held on 27<sup>th</sup> September 2012 resolved as under:-

***"The Council decided as under:-***

***The Council carefully considered all the facts placed before it in the Agenda Item, including the Annexures, and noted that IHC not only has a clean record in its dealing with the Council, but has also made regular payments of license fee to it till date and that there are no disputes between the Council and the Licensee (IHC Ltd.)***

*After discussing at length the pros and cons of the two options proposed in the Item the Council Resolved by majority, to opt for public auction, in a fair and transparent manner, of the N.D.M.C. property at 1, Man Singh Road, with first right of refusal of Indian Hotel Company. The recourse to public auction would serve to determine the market price of the license fee, that IHC would have to match if they wish to run a hotel at this property. This option, the Council noted would also safeguard its revenue interests.*

*The Council further resolved by majority to extend the period of license of IHC, on existing terms and conditions, for a further period of one year or till such time a new licensee is chosen through the bidding process, whichever is earlier.*

*That further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.”*

This decision of the Council was duly communicated to M/s IHC vide letter dt. 05.11.2012.

4. Immediately after the said decision of the Council, a writ petition was filed in the Delhi High Court by one Sh. Mithilesh Kumar Pandey. The petition was considered by the Delhi High court on 17.10.2012 in CWP No.6615/2012 and passed the order on the same day which is reproduced hereunder :-

“

**ORDER**

**17.102012**

**1. This petition filed in public interest seeks a direction for a CBI probe into the matter of extension by the respondent NDMC of lease of property commonly known as Hotel Taj Mansingh by one year from 10<sup>th</sup> October, 2012 to 10<sup>th</sup> October, 2013; a relief for termination of the said lease deed is also sought. It is pleaded that the lease of the said property earlier granted expired in October, 2011 and was extendable for a term of one year only and was so extended till October, 2012; that though the respondent, NDMC was required to expedite the auction of the said property, but instead of doing so, further extended the lease from October, 2012 till October, 2013 despite the fact that there was no agenda therefore in the**

*meeting of the NDMC for such extension. In support of the plea that the property is to be auctioned, reliance is placed on the written opinion dated 14<sup>th</sup> September, 2012 received by the respondent NDMC from the Additional Solicitors General of India. It is alleged that the officials of the NDMC, however, for their personal illegal gain and in connivance with the tenant, i.e. M/s. Indian Hotels Company Limited(IHC) [which has not been impleaded as a respondent] extended the lease to the benefit of the tenant. The Counsel for the petitioner has argued that the property would have fetched a price of more than Rs.2000 crores and which would have fetched interest income of much more than the monthly rent for the extension negotiated by the NDMC with the tenant. Reliance is placed on Aggarwal and Modi Enterprises Private Ltd. V/s. NDMC, (2007) 8 SCC 75 and on Eureka Forbes Ltd. V/s. Allahabad Bank, (2010) 6 SCC 193.*

*2. The Counsel for the NDMC appearing on advance notice has refuted that the decision for extension of the lease for one year from October, 2012 to October, 2013 in the meeting of the NDMC was without any agenda item. He has produced before us the minutes of the Council's meeting No.07/2012-13 held on 27<sup>th</sup> September, 2012 at 4:00 pm in the Council Room, Palika Kendra, New Delhi and against agenda item No.09(E-03) titled "Operation and Management of Five Star Hotel Premises at 1, Man Singh road after the expiry of the extended license period on 10<sup>th</sup> October, 2012". The decision of the majority "to extend the period of license of IHC, on existing terms and conditions, for a further period of one year or till such time a new licensee is chosen through the bidding process, whichever is earlier" is noted. The Council further decided to opt for public auction in a fair and transparent manner, with first right of refusal to IHC.*

*3. The Counsel for NDMC further states that for the purposes of holding the public auction, M/s. Ernst and Young Consultants have been appointed and an attempt is being made to hold the public auction within a period of three to six months from today.*

*4. The petitioner, who is an advocate and has filed this petition on the basis of newspaper reports and without any detailed enquiry, is unable to rebut the aforesaid.*

*5. Though, it cannot be lost sight of that NDMC, in the matter has not acted in right earnest in as much as the date of expiry of lease was known in advance and preparation before hand could have been made for public auction but there is no material before us for deeming a CBI inquiry to be necessary in the matte. Every delay in decision making cannot be a cause for such inquiry and the CBI, a premier investigative agency cannot be bogged down by referring each such case to them. The pleas of the petitioner are also of lethargy on the part of NDMC and though collusion with the tenant is alleged, but without any names or particulars thereof.*

*We are thus not inclined to entertain this petition in public interest and dismiss the same. "*

5. Not satisfied with the dismissal of the writ petition, the petitioner has filed a Special Leave Petition in the Supreme Court and the Hon'ble Supreme Court on 04.03.2013 issued a notice to the parties. In the SLP the legal issues on which the petitioner has sought the directions from the Hon'ble Supreme Court are as under :-

"

**MOST RESPECTFULLY SHOWETH :**

**1. This petition for Special leave to Appeal is being filed by the Petitioner against the judgment and order dated 17.10.2012 passed by the High Court of Judicature at Delhi in Writ Petition (C) No. 6615 of 2012 whereby the High Court dismissed the petition, inter alia, praying for termination of the extension of license by New Delhi Municipal Council in favour of M/s. Indian Hotels Company Ltd. in respect of the Hotel situated at 1, Man Singh Road, New Delhi-110001 admeasuring 3.78 acres.**

**2. QUESTIONS OF LAW :**

**The questions of law that arises for consideration of this Hon'ble Court are as follows :-**

- (i) Whether the extension of license by NDMC in favour of IHCL is in violation of Section-141 of the NDMC Act, 1994 ?**
- (ii) Whether on termination of the license period, NDMC is required to grant a fresh license or simply extend the Existing license of IHCL ?**
- (iii) Whether NDMC has followed the procedure by which it can get maximum possible return/consideration for the hotel property as held by this Hon'ble Court in (2007) 8SCC 75?**

- (iv) *Whether there is any difference between extension and renewal of a license deed ?*
- (v) *Whether the High Court erred in not appreciating that NDMC is a public authority and as such is bound to dispose its immovable properties in a manner which will generate maximum revenue ?*
- (vi) *Whether this Hon'ble Court should direct an investigation by the Central Bureau of Investigation or any other appropriate authority into extension of license by NDMC in favour of IHCL?*

6. The N.D.M.C. has filed its detailed reply and it appears it had not come on the record and the matter has been adjourned to 09<sup>th</sup> July 2013 for the parties to file their replies. A copy of the order of the Registrar, Supreme Court is re-produced as under :-

***"Service is complete. All the respondents granted time for filing counter affidavit. List the matter on 09.07.2013."***

7. On 08<sup>th</sup> April 2013, the IHC has filed a suit for injunction and has prayed the Hon'ble Court as under :-

"

- (a) *Pass a decree of permanent injunction restraining the Defendant by itself, its servants, agents, subordinates and successors from in any manner interfering with the possession, right to operate, run and maintain the hotel premises at 1, Man Singh Road, New Delhi of the Plaintiff, as per the Collaboration Agreement dated 18<sup>th</sup> December, 1976 read with the Deed of License dated 18<sup>th</sup> December, 1976 and Supplemental Agreement dated 25<sup>th</sup> September, 1979 ;*
- (b) *Pass a decree of permanent injunction restraining the Defendant, its servants, officers, agents, subordinates and/or its successors from giving effect to the decision communicated through the letter dated 5.11.2012 having No.D/389/PA/D.E.-1/2012 in respect of hotel premises at 1, Man Singh Road, New Delhi, and/or from giving effect*

*to any known or unknown decision to conduct an auction for running/operating/maintain, the hotel premises at 1, Man Singh Road, New Delhi;*

*(c) Pass any orders as the Court may deem fit in the nature and circumstances of the case."*

8. The matter came up for hearing in the Hon'ble High Court on 09<sup>th</sup> April 2013 and the Court has passed the following orders :-

*"Summons in the suit and notice in the I.As be issued to the defendant. Learned Counsel appearing for the defendant accepts notice. Reply, if any, be filed within two weeks by supplying advance copy. Rejoinder and documents, if any, be filed within two weeks thereafter by supplying advance copy.*

*Learned Senior Counsel for the plaintiff has requested for ad-interim injunction against dispossession. This request will be considered on the next date. However, if there is any threat of coercive steps being taken by the defendant, the plaintiff will be a liberty to approach this Court."*

9. The matter is to come up before the Supreme Court on 09<sup>th</sup> July 2013 and injunction application of IHC seeking injunction will come up for consideration before the High Court on 18.7.2013. The N.D.M.C. has filed a reply within the time allowed by the Hon'ble Court.

10. Further, in the meeting of the Council held on 10.04.2013, the agenda for accepting RFP document prepared by our consultant i.e. M/s E & Y for operation and maintenance of hotel property at 1, Man Singh Road was put up for consideration of the Council. After deliberating on the matter, Council had decided by majority to wait for the orders of the court in the ongoing court case and thereafter, the matter should be discussed in the Special Meeting of the Council.



Draft minutes of this meeting were circulated to the members vide No. F-25(1)/CS/1/2013D-18 dt. 18.04.2013.

11. Mr. C.K. Khaitan, JS (UT), MOUD and Member, NDMC vide his letter dt. 22.04.2013 addressed to Secretary, NDMC has mentioned that the minutes in respect to the aforesaid agenda No. 7 (L-05) i.e. for hotel property at 1, Man Singh Road has not been fully recorded. A copy of the same is enclosed for information of the Council (**Annexure II See pages 68 - 69**).

12. Further, the aforesaid minutes of the Council Meeting dt. 10.04.2013 were put up for confirmation in the Council Meeting held on 23.05.2013. While confirmation of the minutes, Sh. D. Diptivilasa, Additional Secretary (UD), MOUD and Member, NDMC and Sh. C.K. Khaitan, JS (UT), MOUD and Member NDMC had again objected to the recording of minutes of the Council Meeting held on 10.04.2013. After detailed discussion these minutes were approved by majority. Subsequently, Sh. D. Diptivilasa, Additional Secretary (UD), MOUD vide his letter dt. 27.05.2013 addressed to Chairperson, NDMC has conveyed his disagreement regarding recording of minutes. A copy of the same is enclosed for information of the Council (**Annexure III 70 - 71**).

13. In between Under Secretary, MHA vide letter No. 14011/12/2013/Delhi-II dt. 10.05.2013 (copy enclosed as **Annexure IV 72**) has informed that the Competent Authority in the Ministry of Home Affairs has considered the decision taken by the Council in its meeting held on 27.09.2012 for public auction of hotel property at 1, Man Singh Road with first right of refusal to M/s IHC Ltd. Since "the First Right of Refusal" in the said public auction has not been provided for in the lease deed, provision of first right of refusal will result in lower bids in the public auction. Therefore, the Ministry of Home Affairs is of the considered opinion that "first right of refusal"

should not be allowed to IHC in the proposed auction and fresh lease should be granted by open public auction.

14. The Council may now like to take a decision on the Agenda Item placed at **Annexure I** (See pages 63 – 67).

### COUNCIL'S DECISION

Council considered the report put up by the Estate-I Department with reference to Item No. 7 (L-05) placed in the Council Meeting held on 10.04.2013, regarding decision on RFP document for operation and maintenance of 5 star property at 1, Man Singh Road, New Delhi.

Secretary initially explained that some of our members have raised issue of recording of minutes. He further explained that as per practice being followed only decision arrived at in the meeting are recorded in the minutes. However, considering the importance and sensitivity of the case and varied views of Members of the Council, it was proposed to record the minutes of the item in detail, as one time exception.

With the permission of the Chair, Secretary briefed the Council about the developments that have taken place in the matter subsequent to the last meeting of the Council dt. 10.04.2013, brief of which is enclosed as Annexure "I".

While deliberating on the issue the Presiding Officer mentioned that though there was a clause under which continuation of the licence was possible, the issue could not be resolved resulting in the matter reaching present stage. It was further indicated that members from MOUD are inclined to obtain an opinion from the Solicitor General of India in the matter.

At this stage, the Council was informed that the Solicitor General and Additional Solicitor General enjoy the same level as per rules on the subject and therefore, it would be better if we have an opinion from Attorney General, it at all required. Adv. (R&L) also expressed the same opinion that the Solicitor General and Additional Solicitor General enjoy the same level.

Shri Santosh D. Vaidya, Member was of the opinion that the decision for the bidding taken in the Council meeting dated 12.09.2012 should be implemented.

Shri D. Diptivilasa, Member contended that the differing views of the MHA & MoUD would be resolved only by a reference to a higher authority such as the Solicitor General of India.

In the background of the detailed briefing and deliberations on the subject, it was resolved by majority to forward the matter seeking advice of Solicitor General of India through the Ministry of Home Affairs.

**ITEM NO. 07 (L-05)/10.04.2013****1 Name of the Subject:**

Operation and maintenance of Five Star Hotel Premises at 1, Man Singh Road after the expiry of the extended licence period on 10<sup>th</sup> October, 2012.

**2 Name of the Department:**

Estate-I Department

**3. Brief History of the Subject:**

3 (i) A detailed proposal on the subject based on report of our Consultant for the project i.e. M/s Ernst & Young alongwith opinion of Additional Solicitor General and others was placed before the Council vide item No. 09 (E-03) in the meeting held on 27.09.2012. The Council after carefully considering all the facts placed before it resolved that:

"The Council carefully considered all the facts placed before it in the Agenda Item, including the Annexures, and noted that IHC not only has a clean record in its dealing with the Council, but has also made regular payments of license fee to it till date and that there are no disputes between the Council and the Licensee (IHC Ltd).

After discussing at length the pros and cons of the two options proposed in the Item the Council resolved by majority, to opt for public auction, in a fair and transparent manner, of the NDMC property at 1, Man Singh Road, with first right of refusal to Indian Hotel Company. The recourse to public auction would serve to determine the market price of the license fee that IHC would

have to match if they wish to run a hotel at this property. This option, the Council noted would also safeguard its revenue interests.

The Council further resolved by majority to extend the period of license of IHC, on existing terms and conditions, for a further period of one year or till such time a new licensee is chosen through the bidding process, whichever is earlier."

3 (ii) The copy of the aforesaid agenda item 9 (E-03) dt. 27.09.2012 is enclosed as

**Annexure "A"**.

**4. Detailed proposal on the Subject:**

4 (i) M/s Ernst & Young consultant for the project was informed about the decision taken in the aforesaid Council meeting held on 27.09.2012 vide letter No. D/390/PA/DE-I/2012 dt. 05/11/2012 (copy enclosed as **Annexure "B"**) and advising them to work on the Request for Proposal (RFP) document including Draft Agreement.

4 (ii) The matter was discussed by M/s Ernst & Young before finalizing the document and wherever necessary, the details were provided. Further, the Council had resolved to give first right of refusal to IHC and therefore, our Consultant for the project have sought legal advice from Mr. Gagan Anand, Advocate and Solicitor/Sr. Partner Legally Law Officers as to whether IHC would be required to participate in the bidding process or

otherwise, who vide their letter dt. January 31, 2013 (copy enclosed as **Annexure "C"**)

have advised as under:

**"In view of the above described legal position, we are of the considered opinion that in order to optimally safeguard the interests of NDMC against the underlying legal risks of proceeding ahead with the bidding process on the basis of its decision dt. 27.09.2012 to grant limited preferential treatment to IHC by allowing it an opportunity to match the highest offer, the latest version of RFP document and the Draft License Agreement forwarded to NDMC by E&Y have been legally structured in the best and the safest possible manner.**

**Further, in our considered opinion, adopting any other method such as addressing a letter to IHC by NDMC thereby calling upon IHC to accept certain terms & conditions shall be neither legally tenable nor required, in view of the legal position that there is no legal right vested with IHC for seeking any special rights/privileges in any bidding process to be conducted by NDMC. The decision under the special circumstances of the case can be implemented most effectively through the provisions of the RFP document and the Draft Licence Deed already submitted to NDMC by E&Y."**

4 (iii) Further, M/s Ernst & Young vide their letter dt. 15.03.2013 have forwarded draft RFP document. This document is in two parts first being RFP and the second part being Draft Agreement. In brief the broad parameters provided in the document are as below:-

(a) **Eligibility Criteria:**

The bidders should have experience of operation and management of 1000 five star or higher category rooms in India continuously for last 3 years out of which one property should be having not less than 250 rooms and each of the aforesaid

1000 rooms as well as 250 rooms should be in hotel property accredited by MOT, GOI on the date of submission of bid.

(b) **Minimum Guaranteed Licence fee:**

As far as minimum guaranteed licence fee expected from the selected bidder is concerned, the Consultant have proposed to fix the same at ` 36 crores per annum, to be increased to ` 43 crores after 10 years and ` 52 crores after 20 years.

(c) **Annual Licence Fee:**

The selected bidder/licensee shall be required to pay to NDMC the annual licence fee @ percentage of the gross annual revenue for each year as quoted by the selected bidder in its financial bid, subject to minimum guaranteed amount of ` 36 crores per annum to be increased to ` 43 crores after 10 years and ` 52 crores after 20 years. Further, the rate of percentage of annual licence fee bid is proposed to be enhanced by 1% after every 10 years.

(d) **Net financial worth of bidder:**

The eligible bidder should have a minimum net financial worth/capital requirement of ` 500 crores.

- (e) **'No dues certificate'** in respect of payment of Income Tax and Municipal taxes is required to be submitted by the bidder.

**5. Financial implication of the proposed Subject:**

The proposed conditions in the RFP document provides that NDMC would continue to get at least the minimum amount it is getting from the present licensee. Further, revenue would depend upon rates received in bidding process.

**6. Implementation schedule with timeliness for each stage including internal processing:**

Immediately on approval of draft RFP Document by the Council, the Consultant would go for press notice.

**7. Comments of the Finance Department on the subject with diary number and date:**

Finance Department vide diary No. 447/Finance dt. 21.03.2013 has observed that: - The RFP documents prepared by the Consultant seems to be in order and Finance Department have no objection to the proposed draft RFP documents prepared for upgradation, operation & maintenance of a 5 star Hotel at 1, Man Singh Road, New Delhi and for placing the same before the Council for approval.



**8. Comments of the Department on comments of Finance Department:**

No Comments.

**9. Final Comments of the Finance Department (If any):**

Finance Department has concurred the proposal of Department.

**10. Legal implication of the subject:**

The document has been vetted by the legal team of the Consultant.

**11. Details of previous Council Resolutions on the subject:**

Copy of Resolution No. 9 (E-03) dt. 27.09.2012 enclosed as **Annexure "A"**.

**12. Comments of the Law Deptt on the Subject:**

Law Department vide diary No. R-7/PS/LA/2013 dt. 21.03.2013 has observed that: - This is to comply with the Resolution of the Council and has no legal issues at this stage.

**13. Comments of the Department on the comments of the Law Deptt:**

No Comments.

**14. Final Comments of Law Department, (If any):**

Law Department has concurred the proposal of Department.

**15. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

N.A.

**16. Recommendations:**

Draft RFP document (two parts) received from M/s Ernst & Young our Consultant for the project and enclosed with the agenda may be approved by the Council and authorize the Consultant to proceed further in the matter.

**17. Draft Resolution:**

The Council having gone through the agenda item, with enclosures resolved to accept the draft RFP document (two parts) prepared by our Consultant. The Council further directed the Consultant (M/s Ernst & Young) to proceed further with the aforesaid RFP Document.

**COUNCIL'S DECISION**

After detailed deliberations, the Council, by majority, decided to await for copy of the orders in the pending Court cases and thereafter the matter would be discussed in a Special meeting of the Council.

Annexures 5 pages







Annexure ends

**ITEM NO. 08 (C-05)****CONTRACTS/SCHEMES INVOLVING AN EXPENDITURE OF RS. 1 LAC BUT NOT EXCEEDING RS. 200 LACS.**

Section 143 (d) of NDMC Act, 1994 provides that every contract involving an expenditure of Rs.1 lac but not exceeding Rs.100 lacs under clause 143 (c) shall be reported to the Council. In pursuance of these provisions, a list of contracts entered/executed upto May, 2013, have been prepared.

A list of the contracts, entered into for the various schemes, is accordingly laid before the Council for information. **(See pages 74 - 88).**

**COUNCIL'S DECISION**

Information noted.



Annexure 74 – 88





























Annexure edns

**ITEM NO.09 (C-06)**

**ACTION TAKEN REPORT ON THE STATUS OF ONGOING SCHEMES/WORKS APPROVED BY THE COUNCIL.**

In the Council Meeting held on 28.8.1998, it was decided that the status of execution of all ongoing schemes/works approved by the Council indicating the value of work, date of award/start of work, stipulated date of completion & the present position thereof be placed before the Council for information.

The said report on the status of the ongoing schemes/works upto April, 2013, had already been included in the Agenda for the Council Meeting held on 23.05.2013.

A report on the status of execution of the ongoing schemes/works awarded upto May, 2013, is placed before the Council for information. **(See pages 90 - 122 )**.

**COUNCIL'S DECISION**

Information noted.



Annexure 90 – 122







































































Annexure ends

**ITEM NO. 10 (K-01)****1. Name of the Project / Subject:**

**Scheme for improvement in working of Dhobi Ghats in NDMC area.**

**2. Name of Department:**

**Welfare Department**

**3. Brief History of the Project:**

Sanitation and Public Health are the obligatory functions of the Council. Chapter XV of the N.D.M.C. Act 1994 is a chapter on "Sanitation and Public Health". Under the Public Health comes the "Regulation of washing by washermen". Section 281 deals with "Prohibition against washing by washermen" and is re-produced hereunder :-

***281. Prohibition against washing by washermen – (1) The Chairperson may by public notice prohibit the washing of clothes by washermen in the exercise of their callings except at such places as he may appoint for the purpose.***

***(2) When any such prohibition has been made, no person who is by calling a washerman shall in contravention of such prohibition wash clothes except for himself or for personal and family service or for hire on or within the premises of the hirer, at any place other than a place appointed under sub-section (1).***

2. Providing of dhobi ghat is not a function of the Council but the Chairperson with the view to maintain public health has to prohibit the washing of clothes by washermen in the exercise of their callings except at such places as Chairperson may appoint for the purpose. The places appointed for this purpose are called Dhobi Ghats.

### I. Regulation of Dhobi Ghats

3. Thus to avoid health hazard appointing place for washing of the clothes is a regulatory mechanism. The bye-laws for such regulations are available. These were framed under the Punjab Municipal Act 1911 and are still operating. These are known as "Bye-laws for the regulation of Dhobi Ghats".

4. In a writ petition the Delhi High Court has asked the N.D.M.C. to provide for a copy of the scheme available for regulation and management of Dhobi Ghats. The bye laws are for the regulation of the Dhobi Ghats and a copy of these detailed bye laws, which provide for the regulation of dhobi ghats and conditions on which the licence has to be issued are at **Annexure-A (See pages 128 - 132 )**. A copy of the same shall be placed before the High Court. The concerned Deptt. has to ensure that the regulations are strictly implemented. These leaves us with the management of Dhobi Ghats for which no bye-laws are required.

## **II. Management of Dhobi Ghats**

5. Chairperson, N.D.M.C. has designated 16 Dhobi Ghats. These dhobi ghats were necessary when washing machines were not available and in almost every household clothes were given for washing by the washermen. Now a days the washing is done at home and the clothes are given only for press at "Press Tharas" which have been provided by the Chairperson in almost all residential colony.

6. It has been reported that the washermen at most of the dhobi ghats are engaged in commercial activities and are not engaged in the washermen activity as was earlier known. On these 16 Dhobi Ghats the department has already issued 426 licences.

7. N.D.M.C. has constructed and allotted about 94 flats to accommodate some of the families of dhobis who are operating in the N.D.M.C. area.

8. Population of N.D.M.C. area is about 2,60,000, and 94 residential units and 16 Dhobi Ghats are enough to cater to the needs of the dhobis in the N.D.M.C. areas. N.D.M.C. is not obliged to provide either dhobi ghats or accommodation to persons who are not serving the residents of the N.D.M.C. area or to those who come from outside N.D.M.C. area to engage in

their vocation in N.D.M.C. area. The dhobi ghats, to be provided are only for the N.D.M.C. area and that also should be only for the residents of the N.D.M.C. area.

9. There is a great demand for water supply and electricity connections in these dhobi ghats as the dhobis. The department has already sanctioned about 200 electric connections to the licensed dhobis.

10. Increase in number of dhobi ghats or increase in the number of licences is not necessary or required and as decided earlier efforts have to be made to reduce the number of dhobi ghats and the licensees.

11. The supply of water to the dhobi ghats or supply of electricity to the licencees is being attended to by the Director (Comml.) who is in-charge of the supply of electricity and water. Thus electricity and water to these dhobi ghats is managed by the Director (Comml.). Regarding settlement of disputes of consumption of electricity and water, Commercial Deptt, is bringing a proposal before the Council.

12. There has been difficulty in proper management of dhobi ghats and collection of electricity and water charges. It is, therefore, proposed that each dhobi ghat should have a Management Committee of the licensees to manage the affairs for that particular dhobi ghat. The

Management Committee can be in the form of a Registered Society registered under the Societies Registration Act 1860. The electricity and water connection shall be in the name of the said Society and the said Society would be responsible for regulating the water or electricity supply to its members, as per their own management system, N.D.M.C. shall not interfere in their day to day affairs. If the payments of water or electricity charges are not received, from the said Management Committee, the electricity and water connection shall be dealt with in accordance with the provisions of the Delhi Electricity Act 2003 or the Guidelines issued by the Delhi Jal Board.

13. The said Society shall be formed as per provisions of Societies Registration Act. Draft memorandum shall be framed by the N.D.M.C.

### **III. Licence Fee**

14. As per the bye-laws, the fee for the licence is to be fixed by the Committee now the Council. At present the fee is Rs.3/- per annum which is ridiculously low. Keeping in the present trend for the fixation of the licence fee, for the user of the dhobi ghats by the licensed washermen, it is proposed that the licence fee may be suitably increased to be not less than Rs.500/- per annum, the fee prescribed u/s 327 of the N.D.M.C. Act wherein the licence is issued for the user of premises for specified trade.

15. The Agenda is placed before the Council for information so that the High Court could be apprised of the scheme framed by the Council for the regulation and management of the Dhobi Ghats and for fixation of licence fee.

**4. Financial implication of the proposed project/subject:**

No financial implication as the current proposal is for review of scheme for the Welfare of Dhobis in NDMC area Dhobi Ghats.

**5. Implementation schedule with timelines for each stage including internal processing:**

As soon as the Council gives its recommendations the same will be implemented immediately.

**6. Comments of the Finance Department on the subject with diary No. and dated:**

Not required as no financial implication.

**7. Comments of the Department on comments of Finance Department:**

NIL

**8. Legal implication of the subject / project:**

NIL

**9. Detail of previous Council Resolutions, existing law of Parliament and Assembly on the subject:**

Resolution No. 3(Xiii) dt. 21.01.2003, Resolution No. 16(K-3) dated 28/09/2005 and Resolution No. 18 (K-5) dt. 19.12.2007 **(copies enclosed See pages 133 - 144 )**.

**10. Comments of Law Department on the subject/project:**

It has no legal implication.

**11. Comments of welfare Department on the comments of the Law Department:**

Not Applicable

**12. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have followed while processing the case:**

Not applicable

**13. recommendation:**

The recommendations of Council are solicited for improvement in working of Dhobis in Dhobi Ghats in NDMC Area.

**COUNCIL'S DECISION**

Resolved by the Council to approve the proposal of Welfare Department to have a Management Committee of Licencees in the form of a Registered Society, registered under the Societies Registration Act, 1960, to manage the affairs of each Dhobi Ghat. The Society shall also be responsible for payment of Electric & Water dues of the respective Dhobi Ghat.

It was further unanimously resolved to increase the annual License Fee from ` 3/- per annum to `100/- per annum.



The Council also desired that a detailed survey of Dhobi Ghats may be undertaken to identify those who are not working as Dhobis or are using other electrical gazettes for washing / dry cleaning in these Ghats.

**ANNEXURE 128 – 144**



































**ANNEXURE ENDS**

**ITEM NO. 11 (M-02)****1. Name of the subject/project:**

Up gradation of three Secondary NDMC Schools to Senior Secondary level.

**2. Name of the deptt./deptts. concerned:**

Education Department.

**3. Brief history of the subject/project:**

- (i) As per Section 11 ® of NDMC Act, 1994, the establishment, maintenance of, and aid to , schools for primary education subject to such grants as may be determined by the Central Government from time to time is an obligatory function of the Council. As per Section 12 (a) of the Act, furtherance of education including cultural and physical education is a discretionary function of the Council.
- (ii) There is uneven distribution of schools at various levels i.e Primary-18, Middle -06, secondary -6 and senior secondary 8 to cater to the needs of all children residing in NDMC area. It is observed that parents prefer to admit their child in a composite school i.e in a school from class I to class XII, to avoid the travails of admission process again & again.
- (iii) In order to increase the enrollment in schools so as to cater to the requirement of children residing in NDMC area comprising of approximately 42.2 sq. km.
- (iv) The matter was placed before the Council vide Resolution No. 17 (M-01) dated 26.04.2012 wherein the Council decided amongst other issues, for Merger and up-gradation of two existing N P Secondary Schools (Girls & Boys) in evening & morning shift to NP Co-ed Senior Secondary School at Babu Dham, merger & up-gradation of NP Primary School No. 3 & NP Middle School in the same building to a NP Co-ed Secondary School at East Kidwai Nagar. Merger & up-gradation of NP Primary School & NP Middle School at Nauroji Nagar to NP Co-ed Secondary School at Nauroji Nagar & creation of 1 post of Vice Principal and 9 posts of Lecturers.

#### 4. Detailed proposal on the subject/project :

1. After due consideration of factors like, potential strength of students in class IX, X in secondary schools, optimal utilization of existing infrastructure and uneven geographical location of existing Sr. Sec Schools of NDMC, it is proposed that following schools be upgraded as outlined below: N. P. Girls Sec. School, Havelock Square may be converted in a Co-ed school & be up- graded to Sr. Sec. Level for optimal utilization of the existing infrastructure having 41 rooms to accommodate classes upto Sr. Sec. level. It is also brought on record that the only one Sr. Sec. school is there in the area for boys & the students of this locality are of low income strata of the society and are unable to travel to a distant Sr. Sec. School to enroll themselves. 81 students have appeared in class X exams this year & can be admitted in class XI after result.
2. N. P. Co-ed. Sec. School, Lodhi Road also has adequate infrastructure with 42 rooms for the up-gradation to Sr. Secondary level, 117 students have appeared in class X exams this year & can be admitted in class XI after result.
3. N. P. Co-ed. Sec. School, Aurangzeb Lane also has adequate infrastructure with 44 rooms for the up-gradation to Sr. Secondary level, 91 students have appeared in class X exams this year & can be admitted in class XI after result.

#### 5. Financial Implications of the proposal

As a result of proposed up-gradation of schools, financial implications to be incurred by way of creation of various posts are detailed below:

(a) Principal 03 Posts

Pay-band	Grad Pay	DA (80%)	HRA (30%)	T.A.	Total	Total Annually
15600-39100	7600	18576	6960	5760	54480	54480 X 12 X 3 =1961280

## (b) Lecturer/PGT 24 Posts

Pay-band	Grad Pay	DA (80%)	HRA (30%)	T.A.	Total	Total Annually
9300- 34800	4800	11280	4230	2880	32490	32490 X12 X 24 =9357120

The cost has been worked out at the minimum of the corresponding pay-band on annual basis. Total expenditure: Rs. 1,13,18,400/- per annum.

Hence, net annual financial expenditure will be approximately Rs. 37,72,800/- by up-gradation of one Sec. Schools at Sr. Sec. level.

\* At the minimum of the scales

\*\* Subject wise details of 24 posts:

<b>Subject</b>	<b>No. of posts</b>
Hindi	03
English	03
Mathematics	03
Economics	03
Commerce	03
History	03
Political Science	03

## 6. Implementation schedule with timelines for each stage including internal proceedings

The admission of students to XI class is in progress. As regard, filling up of posts, the department is in the process of convening the DPC shortly to fill promotional quota vacancies and send requisitions to DSSSB for filling up direct recruitment vacancies.

## 7. Comments of the Finance Department on the subject:

The proposal of the Education Department regarding Up-gradation of three schools namely (a) N. P. Girls Sec. School, Havelock Square, (b) N. P. Co-ed Sec. School, Lodhi Road (C) N. P. Co-ed Sec. School, Aurangzeb Lane to Senior Secondary Level for which creation of 03 posts of Principal and 24 posts of Lecturer/PGT at total Estimated cost of Rs.1,13,18,400/- per annum was proposed by the Department has been examined/considered in the light of the clarifications to the observations and recommendations of Director (Education), it was finally considered to cost Rs.1,13,18,400/- per annum for creation of 03 posts of Principal and 24 posts of Lecturer/PGT. The proposal was already in principle approved by Chairperson on 03.05.2013 on the file of Admn. Department. Department may further process the case for consideration of Competent Authority for grant of A/A & E/S of Rs.1,13,18,400/- for the subject cited above. Department may also confirm availability of funds to finance the upgraded schools.

The issue was discussed with Director (Education) who confirmed that financial implication is relative one, no post will be surrendered and no individual is available as spare one thus existing structure will continue to be operative even after creation of these posts (27 in all) at an anticipated financial burden of Rs. 1,13 crore.

It is also advised that view of Law Department may also be obtained.

#### **8. Comments of the department on comments of Finance Department.**

Department has taken note of advice of Finance Department.

#### **9. Final views of Finance Department:**

Finance has concurred the proposal.

#### **10. Legal implication of the subject/project:**

No Legal implication is involved.

**11. Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject:**

Resolution No. 17 (M-01) dated 26.04.2012

**12. Comments of Law Department on the subject/project:**

The approval of Council has been sought for creation of 3 Category I posts of Principal and has no legal implications.

**13. Comments of the Department on the comments of Law Department:**

No comments.

**14. Final view of Law Department**

Not applicable.

**15. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case:**

Not applicable

**16. Recommendations:**

**(a) The case is placed before the Council for information regarding:**

(i) Upgradation of N.P. Co.ed. Sec. School, Lodhi Road up to Sr. Sec. Level.

(ii) Upgradation of N. P. Co-ed. Sec. School, Aurangzeb Lane up to Sr. Sec. Level.

(iii) N. P. Girls Sec. School, Havelock Square may be converted in a Co-ed school & be up-graded to Sr. Sec. Level.

**(b) Seeking approval of the Council for:**

(i) Creation of 3 three posts of Principal in the pay scale of Rs. 15600-39100/- plus grade pay of Rs. 7600/-

**COUNCIL'S DECISION**

(a) The Council noted the following information put up by the Deptt. :

(i) Upgradation of N.P. Co.ed. Sec. School, Lodhi Road up to Sr. Sec. Level.

(ii) Upgradation of N. P. Co-ed. Sec. School, Aurangzeb Lane up to Sr. Sec. Level.

(iii) N. P. Girls Sec. School, Havelock Square be converted in a Co-ed school & be up- graded to Sr. Sec. Level.

(b) It was further resolved by the Council to accord approval for creation of 3 (three) posts of Principal in the pay scale of `15600-39100/- plus grade pay of `7600/-.

(c) It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**ITEM NO. 12 (S-02)**

**1. SUBJECT: Major penalty proceedings initiated against Sh. Karan Singh S/O Shri Binda Prasad, Pump Driver, (Retired on 31.12.2010), R-II Division, Civil Engg. Department, NDMC, New Delhi.**



**2. Name of the Department: Vigilance Department**

**Brief History of the subject:**

Major penalty proceedings were initiated against Sh. Karan Singh, Pump Driver (Retd.) under Rule-14 of CCS (CCA) Rule-1965 on a/c of showing the name of Smt. Kanji Alias Smt. Krishna Devi against the Column No.5(iii) as his wife in the Attestation Form at the time of his appointment in NDMC. Later he nominated Smt. Saroj in the form of the GPF as his wife without intimating the NDMC about the fate of Smt. Kanji.

**3. Details of the case:**

Major penalty proceedings were initiated against Sh. Karan Singh, Pump Driver (Retd.) on 31.12.2010 under Rule-14 of CCS (CCA) Rule-1965 vide Memorandum No.19/CH/Vig./Imp./2010/IOV-III dt. 22.12.2010 (**Annexure-I See pages 156 - 160**) by the Chairman/ Disciplinary Authority, NDMC as Disciplinary Authority, as follows:-

**Articles of Charge**

While working as Pump Driver in R-II Division, Civil Engineering Department, NDMC, New Delhi during the period 1975 till date, Sh. Karan Singh has failed to maintain absolute devotion to duty in as much as:

While filling the attestation form at the time of appointment in NDMC he had mentioned the name of Smt. Krishna Devi (Alias Smt. Kanji) in the column of 'Name of his wife'. Subsequently, he nominated the name of Smt. Saroj Bala as his wife in the form of nominee of the GPF. Whereas Smt. Krishna Devi (Alias Smt. Kanji) is still alive and has not given her consent to enter into second marriage with Smt. Saroj Bala.

The above act on the part of Sh. Karan Singh, Pump Driver, R-II Division, Civil Engineering Department, NDMC amounts to unbecoming of municipal employee and he has, thus, violated the provisions of Rule 3 & 21 of CCS (Conduct) Rules-1964.

**(ii) Statement of imputation of misconduct:**

While working as Pump Driver in R-II Division, Civil Engineering Department, NDMC, New Delhi during the period 1975 till date, Sh. Karan Singh has failed to maintain absolute devotion to duty in as much as that:-

Perusal of his personal file reveals that he had mentioned the name of Smt. Krishna Devi (Alias Smt. Kanji) as his wife in the attestation form at the time of his appointment in NDMC. Subsequently, he nominated Smt. Saroj Bala in the form of declaration of nominee of the GPF as his wife without intimating the NDMC about the fate of Smt. Kanji.

In response to the memo dated 07.09.10 issued to him, he has submitted that he had married with Smt. Saroj Bala after chhuttam chhutta had taken place with Smt. Krishna Devi (Alias Smt. Kanji) and submitted a copy of chhuttam chhutta/Divorce taken place in the presence of village panchayat in support of his claim that Smt. Kanji is no more his wife.

The court of judicial Magistrate First Allahabad had observed that the said chhuttam chhutta has not been signed by any punch nor any witnesses vide their order dated 04.02.1986. The court has not considered the said chhuttam chhutta as genuine and valid. Further, there is also nothing on record as to whether Sh. Karan Singh had ever filed appeal against the said court order. Thus, he married with Smt. Saroj Bala without taking consent of his first wife.

The above act on the part of Sh. Karan Singh, Pump Driver, R-II Division, Civil Engineering Department, NDMC amounts to unbecoming of municipal employee and he has, thus, violated the provisions of Rule 3 & 21 of CCS (Conduct) Rules-1964.

**4. Action on Charge-sheet**

He denied the charges leveled against him Vide his defence (**Annexure-II, See page 161 - 164**) and further stated that at the time of his appointment his uncle namely Sh. Suraj Pal was serving in NDMC and he was his guardian. All the particulars furnished by him in the Attestation Form was provided by uncle. His uncle had filled the Attestation Form and name of Smt. Krishna Devi had mentioned as his wife was written by his uncle. He was not aware regarding the name of wife. Probably he was married in his childhood which he never accepted or gave any consent for the same and he also did not know the name of his alleged wife at the time of appointment. The name of his wife Smt.Saroj was subsequently given by him in the form of nominee of the GPF. No question for any consent from Smt. Krishna Devi arose while marrying Smt. Saroj as a Chuttam Chutta Proceedings prevalent in the community in such cases of child marriage had already taken place way back in 1974. He further submitted that the proceeding in the court of judicial Magistrate-I, Allahabad, where the proceedings under section 125 Cr PC and it is not relevant whether the petitioner seeking maintenance is legally wedded wife or not. The observation of judicial magistrate is misconceived because the issue of divorce (chuttam chutta) was never an issue to be decided by the Hon'ble Court and hence the charge framed on the basis of aforesaid order is liable to be set aside and not to be considered, and the inference drawn that he married Smt. Saroj without taking consent of his alleged first wife is also not tenable in Law and is liable to be set aside. Accordingly, Sh. B.P.Verma, AAO (Pension) was appointed as Inquiring Authority to inquire into the charges leveled against him vide order dt.21.02.2011 (**Annexure-III, See page 165**) of the Chairman as Disciplinary Authority, NDMC.

#### **5. Finding of Inquiring Authority**

The Inquiring Authority submitted its report dt. 13.04.12 (**Annexure- IV See pages 166 - 171**) by analyzing the case as per the charges as follows:

**Analysis of the facts:-** That Shri Karan Singh S/O Sh.Binda Prasad, Ex.Pump Driver had mentioned the name of Smt. Krishna Devi @ Kanji as his wife in the Attestation Form at the time of appointment in NDMC. Subsequently, he nominated Smt. Saroj Bala in the form of declaration of nominee of the GPF. On hearing, Sh.Karan Singh, Charged Official has stated that he had CHHUTAM CHHUTTA (may be called as mutual divorce) was held in 1974 between Sh.Karan Singh, C.O and Smt. Krishna @ Kanji (first wife) in the presence of Village Panchayat. The Hon'ble Court of Sh.A.K.Srivastava, Judicial Magistrate Ist Allahabad has **declared fake** the said documents of CHHUTAM CHHUTA in one case titled as 'Smt. Kanji Vs Sh.Karan Singh' on 04.02.1986 (may be seen at S-6 in the Inquiry report's file).

**Conclusion:**

After hearing the case presented by Defence Asstt. Sh.M.L.Dua on behalf of C.O. Sh.Karan Singh and by Presenting Officer, Sh.R.S.Bhardwaj on behalf of Department and the statements recorded before the I.O. while deposing both prosecution witnesses as well as Defence Witness and going through the Exhibit defence documents and prosecution documents it has been held that Smt. Krishna @ Kanji is a legally wedded wife of Sh.Karan Singh, C.O and no separation has been granted by Court, as case is still pending in Allahabad Court. Sh.Karan Singh, C.O. has entered into the 2<sup>nd</sup> marriage without any consent of his first wife Smt. Krishna @ Kanji.

In the light of Government of India decision below, Rule 21 CCS (Conduct) Rule 1965 which is reproduced as under:

"The question of granting permission for re-marriage will not arise in the case of person governed by Hindu Marriage Act, as second marriage is possible under the said Act only after the person concerned has obtained a divorce against his present wife from a Court of Law. Once, he obtained a divorce, he is free to re-marriage and Govt. permission is not necessary."

The charges framed against Sh. Karan Singh, C.O. Ex-Pump Driver in the charge sheet as per Annexure-II of the documents filed by prosecution are '**proved**'.

**6. Action on the Inquiry reports**

The finding of the Inquiring Authority was accepted by the Chairman as original Disciplinary Authority and conveyed to the C.O. vide letter dated 28.06.2012 (**Annexure-V See page 172**).

**7. Submission made by C.O. against the findings of Inquiring Authority.**

He, vide his representation dated 07.08.12 (**Annexure-VI See pages 173 - 175**) has stated that He is originally resident of Village-Kannupar, Post-Sirathu, Distt.-Kaushambi (Allahabad). His family still resides at this place. At the time when he was about 15 years old he was married with Krishna Devi (Kanji) in the year 1965. Both were minors and their marriage may be term as Bal Vivah. In the year 1974-75 in the meeting of Sarpanch and member of both the villagers, it was decided that "Chute Chuttav" was ordered between his wife and him and they were allowed to live separately. Accordingly, they started living separately having no relation at all without any connection to each other. Keeping in view of the above separation as per order of the Sarpanch he married with Smt. Saroj during the year 1978 and they started living in Delhi. Till 1980 Smt. Krishna Devi had never raised any objection in respect of his second marriage. She however, filed a case in the court of Allahabad for seeking maintenance allowance only and not residing with him. She filed the Court case and on the basis of a certificate in respect of his second child 30.01.1985, the court had passed the orders to grant maintenance allowance 300 p.m on the ground that she had been living separately. In the year 2005, he nominated his second wife Smt. Saroj for the purpose of GPF in NDMC. The NDMC accepted his nomination and the same was taken on record. Smt. Krishna Devi never challenged his second marriage with Smt. Saroj.

However, she forwarded in NDMC that her name is also included in his personal file for the purpose of DCRG/Pension. The inquiry was conducted against him and it was proved by the Inquiry Officer that action to have second marriage without any information to the office is violation of the CCS (Conduct) Rules.

Since he was illiterate and having no knowledge about the CCS (Conduct) Rules and on the basis of separation done by the Village Sarpanch, he entered in the second marriage with Saroj without informing the office.

At present the case is pending in the court of Allahabad for recording her name in record of his personal file. No decision has been taken so far. He will abide by the Court decision. NDMC has nothing to do with the court case for pending in the court.

Further, the C.O requested for the following:-

1. Last salary for the month of December, 2010.
2. Time Scale benefit.
3. DCRG and commutation of Pension apart from Leave Encashment.

#### **8. Reply of Vigilance Department**

- a) Inquiry Officer has given a report stating that Smt. Krishna @ Kanji is a legally wedded wife of Shri Karan Singh, C.O and the charges framed against Shri Karan Singh, C.O. Ex.Pump Driver are "**proved**". This report is dated 13.04.2012.
- b) When an officer/official stands charge-sheeted on his retirement, he is granted only provisional pension. Commutation of pension, gratuity, leave encashment & last salary are also withheld. The last salary for the month of December, 2010, Time Scale Benefit, DCRG and

Communication of Pension apart from Leave encashment have been withheld of Sh.Karan Singh, Pump Driver (Retd.).

- |     |   |  |
|-----|---|--|
| 9.  | <b><u>Financial implication:</u></b>  | Nil  |
| 10. | <b><u>Implementation schedule:</u></b>  | Immediately after the approval of the Council. |
| 11. | <b><u>Comments of the Finance :</u></b>   | N.A.   |
| 12. | <b><u>Legal implication:</u></b>  | N.A.   |
| 13. | <b><u>Details of previous council Resolution:</u></b>                               | N.A.   |
| 14. | <b><u>Comments of the Department on the<br/>Comments of the Law Department:</u></b> | N.A.   |
| 15. | <b><u>Final View of the Law Department:</u></b>                                     |  |

LA advised that also department may bring on record, if any, para 23 and 25 of the H.C. judgement F/X in the case of Radhey shyam Vs NDMC , in the modified form for the facts of the case, which are as under:

**Para 23:** A pension is not a bounty. It is earned by the dint of labour. Of course, it is liable to be forfeited even after superannuation from service, but upon a grave misconduct being found, and further the forfeiture can be partial or full.

**Para 25:** The mitigating circumstances favourable to the CO are his long length of service. No blemish in the service. The offending act being not in discharge of his official duties. No illegal gain made by the C.O. No loss caused to the department. The aggravating circumstances would

be the C.O showed the name of Smt. Kanji Alias Smt. Krishna Devi against the Column No.5 (iii) as his wife in the attestation form at the time of his appointment in NDMC. Later he nominated Smt. Saroj in the form of GPF as his wife without intimating the NDMC about the fate of Smt. Kanji.

**16. CVC Advice:**

N.A.

**17. Rule position about quantum of withdrawal of pension:-**

**Under Rule 9 of CCS (Pension) Rule.**

**9. Right of President (Council in this case) to withhold or withdraw pension.**

1. The Council reserves to the right of withholding a pension or gratuity, or both either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave mis-conduct or negligence during the period of service, including service rendered upon re-employment after retirement:

Provided that the Union Public Service Commission shall be consulted before any final orders are passed if furnished:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of rupees three hundred and seventy-five (Rupees Three thousand five hundred from 1.1.2006) per mensem.

**It means that :**

- (1) Pension can be withdrawn in full by the Council on account of mis-conduct.**



**(2) If part pension is withdrawn then it can not be reduced below rupees three thousand five hundred.**

**18. COMPETENCY OF THE COUNCIL**

As per Resolution No. 2 dated 29.06.1973 read with Reso. No. 12 dated 27.07.1973 and section No. 416 of NDMC Act, Council is vested to exercises the power of President in disciplinary matters.

(Any withdrawal of pension can be made with the approval of the President (in case of NDMC employee, power is vested with Council) under the CCS (Pension) Rules and also only in case of disciplinary case of grave misconduct.)

**19. Recommendation:**

Council is to impose cut in pension of NDMC retired employees. Accordingly, matter is placed before the Council to take a decision on suitable cut in pension of Sh. Karan Singh S/O Shri Binda Prasad, Pump Driver (Retired).

**COUNCIL DECISION**

Considering the facts of the case in totality the Council unanimously resolved to impose a penalty of 5% reduction in pension for a period of five years on the charged officer, Sh. Karan Singh S/o Sh. Binda Prasad, Ex. Pump Driver (Retd. on 31.12.2010).

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**(VIKAS ANAND)**  
**SECRETARY**

**(SHEILA DIKSHIT)**  
**PRESIDING OFFICER**

ANNEXURE 156 – 175









































ANNEXURE ENDS