

SPEAKING ORDER

(Regarding Unauthorized Construction and Encroachment at MAMC Campus –
Section 5A (1&2))

(In compliance with Hon'ble Delhi High Court directions in W.P.(C) 11000/2025 dated
01.08.2025)

OFFICE OF THE ESTATE OFFICER
MAULANA AZAD MEDICAL COLLEGE
Bahadur Shah Zafar Marg, New Delhi – 110002

File No. F.No.7(1)/Complaint/Est./MC/2023-24/9548 14539-44
Date: 29/08/2025

In the matter of:

1. Swami Haider Dass Ashram/Temple, through Mahant Rajinder Nath (claimed signatory)
2. Commercial occupants: R.K. Store, Vijay Kumar Tea Shop, Baba Garib Nath Parmarth Sewa Sansthan Medical Store, Sanjay Medicose, S.S. General Store

All situated near Orthopedic Block, LNJP Hospital, MAMC Campus, New Delhi –
110002

Background

- The subject premises fall within land allotted to MAMC by L&DO, Government of India, and are public premises under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.
- Unauthorized shops and structures were raised inside the temple premises by the Ashram and sublet to private operators.
- Earlier notices (9.05.25 and 04.06.25) were challenged before Hon'ble Delhi High Court, which vide order dated 30.05.25 in W.P.(C) 8226/2025 & batch directed that a personal hearing be granted and a speaking order be passed.
- A speaking order was passed on 16.07.25, which was then challenged by the Ashram in W.P.(C) 11000/2025. Vide order dated 01.08.25, Hon'ble High Court directed that Ashram be given fresh opportunity of personal hearing and thereafter a speaking order be passed.

Personal Hearing (04.08.2025)

ofc

- On 04.08.25, Advocate Shri Anuroop PS (appearing in earlier HC matter) and Shri Vishal (Sanjay Medicos) appeared on behalf of the Ashram.
- No authority letter was filed. but they were heard.
- They submitted a written representation dated 04.08.25.
- Subsequently, a further reply dated 06.08.25 signed by Mahant Rajinder Nath, “Authorized Signatory, Ashram” was also received. Both replies have been considered and analysed.

Now the 2 replies shall be analysed point wise as below

1st letter — Dated 4 August 2025:

Point wise issues raised and analysis:

Point 1

The letter mentions below points

EO not validly appointed under Sec. 2(b) PP Act.

Land not “public premises” under Sec. 2(e) PP Act.

Notice dated 04.06.2025 does not comply with Sec. 4 (lacks details of area & grounds).

Analysis:

The undersigned is the duly appointed Estate Officer for MAMC under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Subsequent proceedings—including the order issued on 17.07.2025—were issued by the Estate Officer that is myself, curing any defect alleged in the earlier notice.

The land forms part of the premises allotted to MAMC by L&DO, therefore qualifies as “public premises” under Section 2(e).

Eviction is being done under section 5A (1&2) and not under section 4. Further, pursuant to Hon’ble High Court directions, a personal hearing on 04.08.2025 was granted and written submissions (04.08.2025 and 06.08.2025) are being considered; thus, the principles of natural justice stand fully complied. The order issued explicitly stated location, nature of violation (unauthorized construction and letting out shops). There is no need to specify exact area as there is no boundary dispute present on site. There is no private land in the vicinity. Therefore the plea is rejected.

Point 2

- No “due process” under PP Act complied with.

- Disputed question of fact regarding identity of land.
- Claim: Ashram has been in possession since 1961 (acknowledged by hospital), and claim of adverse possession.

Analysis:

Due process has been followed. The order has been issued under section 5 A (1&2), clearly mentioning the grounds. Opportunity of hearing has already been provided.

With regard to, “Disputed Question of Fact” regarding identity of land, No credible documents produced by Ashram to establish title or allotment. On the contrary, official records from L&DO/MAMC show land belongs to Govt. of NCT Delhi for medical college and hospitals. Merely raising a “dispute” without documentary support does not oust Estate Officer’s jurisdiction.

On possession since 1961, Ashram has produced no lease deed, allotment letter, or sanctioned plan from competent authority. At best, hospital authorities may have tolerated the presence of the temple in past, but tolerance ≠ ownership or legal right. Unauthorized occupation, even if longstanding, remains unauthorized.

On claim of Adverse Possession, Adverse possession can only be claimed as a shield in civil proceedings before a competent civil court. Moreover, adverse possession requires proof of hostile possession against State with animus possidendi. Here, Ashram has itself argued that hospital “acknowledged” possession — acknowledgment defeats hostile claim. Adverse possession plea is legally untenable in PP Act proceedings. Therefore the plea is rejected.

Point 3

The notice is defective because it does not mention any provision of law or the authority under which it was issued.

Analysis:

Minor procedural irregularities do not vitiate proceedings if principles of natural justice. Further, the provisions of sections 5A (1&2) are clearly mentioned in the order dated 17/7/2025. Ashram was fully aware of the nature of proceedings, appeared before EO, and submitted written replies.

In *N. Mani v. Sangeetha Theatre*, (2004) the Hon’ble Supreme Court stated that “It is well settled that if an authority has a power under the law merely because while exercising that power the source of power is not specifically referred to that by itself does not vitiate the exercise of power so long as the power does exist and can be traced to a source available in law.”

Therefore, no prejudice has been caused by any alleged omission. Even after that order, a hearing has been taken. It has been more than a month. and no action has been taken. The Ashram has already submitted 2 replies for consideration. At this stage, Ashram as well as its

occupants are fully aware what action and under what section is being taken. Thus, any alleged lacunae at the initial stage stand cured by subsequent proceedings, hearings. Therefore, the plea is rejected.

Point 4

Estate Officer has no jurisdiction since property is owned by the Ashram.

Property in its possession is not "public premises" under Section 2(e) (they wrote 2(a), but correct clause is 2(e) of the PP Act, 1971.

Analysis:

On Ownership Claim, Ashram has produced no ownership document (lease deed, allotment order, or revenue records). Mere long possession or internal construction does not establish ownership. By contrast, official land records by L&DO and DDA establish that the land belongs to Maulana Azad Medical College & associated hospitals (GNCTD institutions).

On public premises, Public premises includes "*any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government, and premises belonging to any State Government, or Government company or statutory corporation.*" MAMC/LNJP land is undisputedly government land, allotted by L&DO a central agency, hence falls squarely within Sec. 2(e). Therefore the plea is rejected.

Point 5

Ashram existed since British regime, continuously occupied.

Claims adverse possession

Lists historical, religious, and welfare activities (samadhis, rituals, water for Irwin Hospital workers, welfare committee, subsidized medicines/food, lodging for patients).

Analysis:

Even if the Ashram existed during British times, mere historical existence does not confer ownership or legal right over public premises. Religious or welfare activities, however laudable, cannot override statutory ownership of government land. Adverse Possession Argument claim has already been dealt with.

Even if medicines/snacks are sold at discounted rates, running shops within public premises without authority constitutes commercial exploitation. Welfare or subsidized rates do not change the fact that these are commercial establishments operating without sanction. The Public Premises Act is concerned with unauthorized occupation, not profit motive — whether commercial or charitable, unauthorized use remains unlawful. Encroachments on hospital land obstruct public pathways and emergency access — undermining hospital functioning and

natient safety. Even charitable purposes cannot justify risks to life, health, and emergency movement. Therefore the plea is rejected.

Point 6

That the notice served upon the petitioner was not only illegal, unauthorized but also without jurisdiction and colorable exercise of power.

Analysis:

The matter of jurisdiction, legality etc has already been dealt with. Therefore the plea is rejected.

Point 7

That the notice dated 4.6.2025 does not specify the provisions of law which authorize the Admn. Officer of MAMC with powers to evict or demolish or get vacated the structure of the petitioner.

Analysis:

True, the initial notice was a *general intimation* and did not cite section numbers. But the proceedings are in fact under Section 5-A(1) & (2) of the PP Act, 1971, where the Estate Officer is fully empowered to direct removal of encroachment/unauthorized construction. Subsequent orders (order dated 17.07.2025) clearly record that the matter is under PP Act and that the Estate Officer has jurisdiction. Therefore the plea is rejected.

Point 8:

That your claim to be the owner of the land is erroneous as 25 years ago it was the claim of LNJP Hospital that the land belongs to them and they had forced litigation upon the tenants of the Ashram. It is a fact that LNJP Hospital and Maulana Azad Medical College are two distinct entities and one of their claim is false and that neither LNJP Hospital nor MAMC have any right, title or interest over the land of the Ashram..

Analysis:

The contention that ownership claims are inconsistent between LNJP Hospital and MAMC is factually and legally untenable. Both LNJP Hospital and MAMC are integral parts of the Government of NCT of Delhi and function on public premises belonging to the Government. MAMC campus houses 4 hospitals – LNJP, GBPH, GNEC and MAIDS. The first 3 hospitals are associated hospitals of MAMC. At present, the Estate officer of MAMC is designated so

the entire campus and allots flats for the doctors/staff of all 3 hospitals. Merely because at some point of time, there was an estate officer designated from LNJP has no bearing in this present case. All 3 hospitals operate from the same campus and associated with each other. Therefore the plea is rejected.

Point 9

That the land and settled possession of the ashram is proved from the very old electricity meter/connection granted and installed in the Ashram premises.

Analysis:

The existence of an electricity connection or meter does not confer ownership rights or legalize encroachment. Utility services such as water or electricity are often extended to occupants for humanitarian reasons, even where their possession is unauthorized, and courts have consistently held that grant of an electricity connection is not proof of ownership or lawful title.

Moreover, the doctrine of "settled possession" cannot override statutory provisions under the Public Premises Act, 1971, where the competent authority (Estate Officer) is empowered to evict unauthorized occupants. A person cannot claim rights over government land merely on the basis of continued possession coupled with utility connections.

Accordingly, the argument that an electricity meter validates ownership or adverse possession is legally untenable and rejected.

Point 10

That the notice dated 04.06.2025 cannot be seen in the Eyes of Law to have been issued under any statute in operation including the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

Analysis:

Matter already dealt with and the plea is rejected.

Point 11

That the notice having been issued by an officer of the MAMC, it does not mention any specific date of hearing wherein the Ashram could have addressed or put forward its defence, rather straight away directs the petitioner to vacate the premises within 15 days and hence the cardinal principle of law of *audi-alteram partem* has been denied to the Ashram.

Analysis:

Hearing now has already been conducted and written submission have been analysed herewith. Therefore the plea is rejected.

Point 12

That in the instant case the construction/erection of building in its present state was completed more than 89 years ago and in fact if at all the learned Admn. Officer of MAMC was of the view that the building is unauthorized then a notice under Section 5B ought to have been issued in the name of the Ashram.

Analysis:

The claim that the construction is 89 years old is unsupported by any documentary evidence. No sanctioned building plans, permission letters, or ownership records have been produced by the Ashram to prove lawful construction at any time. Mere longevity of illegal possession cannot legalize an encroachment on public premises.

Further, in matters of encroachment 5A (1&2) are applicable. There is no ambiguity over this fact. Therefore the plea is rejected.

Point 13

That no notice under Section 5A (2) could be issued by you, as no law authorizes you to do so and is not at all competent and was issued and the impugned notice dated 4.6.2025 is totally illegal and against the Public Premises Act itself.

Analysis:

The undersigned is competent being the Estate Officer. Therefore the plea is rejected.

Point 14

That the land belongs to PWD as per demarcation report of khasra no 192

Analysis:

Ashram has not submitted any demarcation report. Khasra no 192 is a large tract of land, and a part of it is recorded in the name of PWD, however, that part is outside the MAMC campus.

In any case, there is no dispute between PWD and MAMC. Ashram is just trying to create confusion here.

The objection that the land belongs to PWD and not MAMC is misconceived. The land in question is public land vested in GNCTD, allotted to MAMC/LNJP for institutional use, and falls squarely within the definition of 'public premises' under Section 2(e) of the PP Act. Therefore the plea is rejected.

Point 15

That the revenue records suggests that the area of khasra No. 192 min. which was placed at the disposal of Irwin Hospital (Now LNJP Hospital), was 146 bigha 07 biswas. No demarcation whatsoever was carried out by the authorities concerned while coming to a definite conclusion that the Ashram has encroached upon the area which was placed at their disposal. The demarcation would have clinched the issue as to whether the Ashram had encroached upon any portion of the land which was placed at the disposal of MAMC.

Analysis:

Demarcation is needed for settling boundary disputes between two or more title/record holders. Here, there is no such dispute. The Ashram does not have any proof of ownership/title and stands inside the fenced/functional area of the Hospital Campus near the Orthopedic Block, hence there is no boundary ambiguity requiring fresh demarcation. Ashram is trying to create a dispute between MAMC and PWD which does not exist. The Ashram has no locus standi here. Therefore, the plea is rejected.

Point 16

That the Admn. Officer of MAMC has failed to appreciate the Admn. Officer has no power under the Public Premises Act and if MAMC is under the illusion the land stood allotted to them, they ought to initiate civil proceedings for recovery of possession.

Analysis:

Matter already dealt with and hence the plea is rejected.

Point 17

That the present notice is contrary to the pleadings of the LNJP Hospital.

Analysis:

Matter already dealt with and hence the plea is rejected.

Point 18

That lastly, the construction has been raised by Swami Haider Das Ashram and not by any govt. authority.

Analysis:

If claim of Ashram is to be believed then it falls under encroachment and unauthorized construction, thus rightly attracting Section 5 (1&2) of the Act. Therefore the plea is rejected.

Point 19

That even by admission of the Estate Officer, LNJP Hospital your knowledge of possession dates back 40 years and the notice was issued dated 23.10.2000.

Analysis:

Matter of long possession, already dealt with and hence the plea is rejected.

Point 20

That this reply may in no manner be considered to be a submission to the jurisdiction of your office of which you have none and furthermore, the Ashram shall avail all remedies available to it in law.

Analysis:

The point is not relevant in this present case and hence the plea is rejected.

Letter 2 — Dated 6 August 2025

Ashram in its 2nd letter has raised the below points:

1. *That the notice under reply has been served upon the respondent Swami Haider Dass Ashram under the signatures of the Admn. Officer, Estate, Maulana Azad Medical College, who is not the Estate Officer as there is no notification under Section 6 of the Public Premises Act, 1971, determining the category of public premises and jurisdictional area, in respect of which the Estate Officer can exercise power under the Public Premises Act as there is no notification showing that the land in question falls within the jurisdiction of an Estate Officer notified under the aforementioned provisions. Hence the proceedings before the Admn. Officer cannot be termed to be precedence under the Public Premises Act, 1971.*
2. *That it is submitted that only a person so appointed under Section 3 is competent to issue any notice under the Public Premises Act.*
3. *That the notice dated 4.6.2025 does not show the specific area nor does it mention under what provisions of Law or under which Act the notice has been issued.*

4. That there are disputed question of facts raised by Baha Haider Dass Ashram including whether the premises falls within the definition of a public premises and also the plea of limitation which is raised by the documents filed by the Ashram along with the reply. It is further submitted that as per the judgment in *M/s BHARAT COAKING COAL LIMITED VS. ESTATE OFFICER AIR 1991 NAC 3 PATNA BIHAR* the disputed question of facts have to be adjudicated upon by a court of competent civil jurisdiction i.e. a competent civil court.

5. That the Ashram has provided sufficient evidence to show the possession of the Ashram over the land for the last more than 100 years more so to the knowledge of the MAMC as the predecessor of the Irwin Hospital knew of the presence of the ashram as way back as 1961 and this shows that the Ashram has crossed the threshold of 30 years and is now admittedly in possession for more than 60 years and hence the proceedings are barred by jurisdiction and the Ashram is the owner of the said land by virtue of adverse possession and when the MAMC or LNJP Hospital cannot recover possession by virtue of a suit which suit is the time barred as and when filed. The present proceedings are colourable exercise of power and what cannot

be done ordinarily, cannot be done by misusing administrative power. *AIR 1960 AP 3*.

6. That it is not out of place to mention that the Ashram has been in existence even before the foundation of the MAMC.

7. That even the map/layout plan of LNJP, G.B. Pant Hospital and MAM College reflects existence of the temple / ashram at the time of construction of MAMC more particularly, the hospitals complex. Copy of the layour plan is being annexed with this submission for perusal and ready reference.

Analysis:

No new relevant points have been submitted. All matters of jurisdiction, public premises, demarcation, long possession, adverse possession etc have already been discussed and analysed. Hence, the above points are rejected.

Therefore, I have gone through the written submissions made by the Ashram in its 2 letters submitted to the undersigned. After, analysing them point wise, it is clear that the Ashram could not provide any documentary proof/evidence in support of its title/claim over the land on which it is built. The please submitted by the Ashram are thus without merit and hence rejected.


Order

In exercise of powers under Sections 5A & 5B of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order:

1. Swami Haider Dass Ashram/Temple and its commercial occupants shall vacate the encroached premises of rooms/shops and other such facilities and remove unauthorized structures within 15 (fifteen) days of receipt of this order.
2. In case of failure:
 - o The unauthorized structures shall be demolished.
 - o Costs of removal shall be recovered as arrears of land revenue.

This order is passed after affording due opportunity of personal hearing and considering written submissions, and is a speaking order in compliance with Hon'ble High Court directions dated 01.08.25 in W.P.(C) 11000/2025.

Issued under my hand and seal on this 29 day of August 2025


Estate Officer
Maulana Azad Medical College
Govt. of NCT of Delhi
New Delhi-110002

Ram Krishna

Estate Officer, Maulana Azad Medical College
Govt. of NCT of Delhi

To,

1. Manager: Administrator, Swamy Haider Dass Ashram/Temple
 2. Owner/Occupant R. K. Store
 3. Owner/Occupant Vijay Kumar Tea Shop
 4. Owner/Occupant Baba Garib Nath Parmarth Sewa Sansthan Medical Store
 5. Owner/Occupant Sanjay Medicose
 6. Owner/Occupant S. S. General Store
- All at: Near Orthopedic Block, Lok Nayak Hospital, MAMC Campus, New Delhi – 110002