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Is failing governance forcing courts to play administrator's role?

Bhawani Shankar Tripathy / Jun 10, 2013, 02:22 IST

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Instances of citizens seeking courts' interventions to rederess their grievances are only on the rise.



Instances of citizens seeking courts' interventions to rederess their grievances are only on the rise. On the positive side, this reflects a society that is now more aware of its constitutional rights and does not hesitate to seek legal remedies to enjoy those rights. On the other hand, it is a highly disturbing trend because it directly demonstrates governance failure in urban management.

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Many of the grievances for which Gurgaon citizens are knocking at the doors of the courts are everyday administrative issues. One of the earliest legal cases concerning development filed by residents related to external development charges (EDC). After suffering bad roads, missing sewage lines, lack of clean water supply and street lighting for years, and having failed to get satisfactory answers from the local administration, citizens went to court. The civil writ petition was filed by the NGO Society for Urban Regeneration (SURGE) in 2002. SURGE wanted to know how much EDC money was collected, how much was spent on infrastructural development, and the list of development works carried out with the money. RTI was then still at a nascent stage.



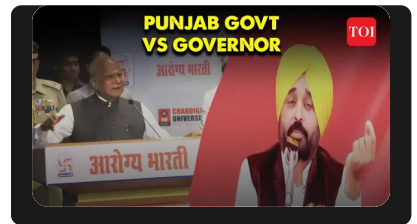
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In 2008, [DLF City](#) residents filed a petition in the Punjab and [Haryana High Court](#) against the dumping of the city's garbage close to their homes. But before going to court, the citizens first agitated on the roads. It is only when agitation failed to move the authorities the citizens were left with no other choice. The Bandhwari garbage treatment plant was finally set up only after the court's intervention. A garbage treatment plant is a basic infrastructure in urban areas, but Gurgaon did not have one till then.

In 2009, the Qutab Enclave Residents Welfare Association (QERWA) filed a civil writ petition in the Punjab and Haryana High Court concerning drinking water and ground water exploitation. The petition read: "The petitioners herein are filing the present writ petition invoking the extra ordinary jurisdiction of this Hon'ble Court for protection of their fundamental rights and fundamental duties as envisaged in Articles 21, 48-A and 51-A of the Constitution of India respectively....The present writ petition is concerning the conservation of water including ground water and for stopping illegal use and exploitation of ground water in Gurgaon, District of Haryana and National Capital Territory of Delhi."

The case of encroachments around the Ammunition Depot is well known to everyone in Gurgaon as one of the most significant governance failures. As per law, no construction was allowed within 900m of the ammunition depot, which has direct relevance to national security and safety of human life and property. Yet, the local administration failed to prevent even illegal colonies in the restricted zone. Finally, the Court had to step in and pass directives to prevent all new constructions till a final decision was reached.

When the [Municipal Corporation](#) of Gurgaon was formed, payment of property tax became an issue, especially with residents living in builder colonies. These residents were already paying heavy monthly maintenance to the colonizer. They naturally felt doubly burdened when they were asked to pay municipal taxes, more importantly because they were not receiving any maintenance services from the municipality. Having found no satisfactory answer either from the local administration or the state government, residents went to court.

Recently, a group of residents from DLF Phase II sought the Court's help against an adjoining colony, UNITECH Heritage City, on the right of passage. According to the DLF residents, Heritage City broke a portion of its boundary wall to construct a road on the green belt on DLF side to access MG Road. When HUDA and DTCP failed to resolve the matter, DLF residents went to court.

More and more RWAs from builder colonies are seeking the court's intervention against the builders. Orchid Petals, Unitech World Spa, Mayfield Gardens...the list is getting longer every day. On the other hand, Ardee City RWA reportedly said that they were forced to approach the High Court after the DTCP issued a notice against the residents, asking them to get Occupation Certificates within a month. DTCP also threatened to cut off the power, water and sewerage connection of the colony.






Fed-up with a non-responsive local administration, an increasing number of RWAs want to take over maintenance from the builders. Finally, following the court's orders, DTCP has asked some 35 builders to submit their Completion Certificates.

Most of these issues could have been resolved easily if the local administration was sensitive to the needs of the city and the residents, whose demands were often fair and justified. Not doing so will mean the city may as well be governed by courts and not administrators. This is not a good sign at all.

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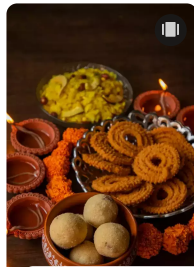
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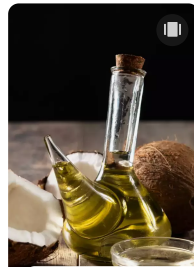
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