

THUS SPAKE THE CIDEF "SOMEBODY" OF BPP - SHRI B. T. DASTUR

HIS FACTS AND REVELATIONS REGARDING "THE HOUSING RESERVOIR" OF 4400 FLATS.

A DOZEN QUESTIONS ARISE!

How Is the "Housing Advisory Committee" Made to Act?

Ah! Vah! the Master Executive of BPP has spoken! Vide page 13 of Jame Jamshed of 12-6-2005. He is one B. T. Dastur, having some formidable designation like Chief Executive or Chief Secretary, or Chief Administrator or Chief Something I don't know, of BPP. His subject is; the role of BPP in the community. I have seen him, a few times, sitting in line with the trustees in the meetings which they used to call to "hear" (in reality to set aside) the voice of the orthodox or the high Priests on some religious questions. He not only sits but also thinks in line with the trustees. That is obvious. However sometimes I felt that the trustees were falling into his line of thinking. That observation was illustrated at the time of Bardoli meeting of FPZA held in November 2003, when four religious issues were canvassed which appeared to be more shooting from the circus ring of sarvashri B. T. Dastur and Keki Gandhi than the holy circle of the 7 trustees. It becomes often difficult to guess whether Shri B. T. Dastur's is his Masters' voice or his own voice thrust upon his Masters. However the Jame article of 12-5-2005 presents some facts and some revelations which are quite significant and raise several questions on the issue of BPP trustees (managing) their housing portfolio. (I have put the word "managing" in the brackets, as shri Dastur himself has done so in the 11th line of his article. Sometimes a word is put in inverted comas to signify that the author means it to have the opposite meaning. Although here there is a bracket instead of inverted comas, does it mean that it is to be also understood as "mismanage", assuming that the brackets are the printer's devil's trick in place of inverted comas?)

The facts and revelations ('FR' for short) of Shri Dastur as regards the housing management of BPP are:

FR1 : "The largest and most time consuming activity" of BPP trustees is providing houses to "the **deserving**" (the last word in bold type)

FR2 : The decision makers in this behalf are: (a) 7 trustees, (b) the "Investigator" ('I' Capital) (c) 2 layers of Administration, and after 22 lines away down below in the article (d) "Housing Advisory Committee (HAC) of 6 "outsiders", who are the assistant filterers cum reommenders to the trustees. Amongst these a, b, c, d, thousands of man hours are put in for selecting an allottee. This colossal task involves (a) "extensive efforts", (b) smoothening of "rough edges", (c) maintaining "total transparency".

FR3 : BPP has the largest reservoir of 2800 flats of its own plus another 'say' 1600 flats of the Wadia Bags, total: 4400 flats.

FR4 : The trustees do accept **non-interest bearing refundable deposits** though "not in every case", but in "some cases".

FR5 : As an illustration ("**for instance**") "at the Goregaon Estate, no allotment has been made against a deposit".

FR6 : "Quite some flats which are believed to have a market value of Rs. 15 lacs are allotted without any **pecuniary consideration**".

(This means all the rest are for "pecuniary consideration", which in turn means charging money, by whatever name called, for allotment of flats)

Thanks Mr. B. T. Dastur (hereinafter **BTD** - to rhyme with **BPP**).

The above FR1 to FR6 raise the following questions, each of which requires to be inquired and investigated by an independent, impartial, objective and truthful investigative or vigilance committee:-

Q.1: Is every building, in which BPP has allotted or is allotting 4400 flats, held by BPP Trust under a Trust Deed or an Instrument of Trust?

Q.2: What is the object provided in the Instrument? The object means the wish, desire, intention of the settlors or Donors, which the law actively preserves and protects through the Bombay Public Trusts Act. Surely, the donors' intention is to provide housing for the needy Parsis, who cannot afford to own or are financially capable of owning a bungalow or house or flat or suitable residence.

Q.3: Are there any buildings which have come to BPP Trust without an Instrument of Trust? If there are, it is obvious that the object of the trust and intention of the donor must be as in Q3 above. Is this correct?

Q.4: What are the criteria to judge who is "deserving"? Are they in consonance with the specified object of the trust? Can a non-resident Indian Parsi by virtue of being such NRI or a "high priest" by virtue of being one, or a Parsi who can afford to pay a deposit, fall into the category of deserving, in consonance with the object of the trust?

Q.5: What is the locus standi of BPP Trust as regards the 1600 flats of the Wadia Bags? Has each of the buildings there an Instrument of Trust? What are the objects mentioned in the Instrument? Has the Instrument appointed its own trustees independent of BPP Trust? If yes, what is the source of power and authority of BPP to allot the flats? Has the Instrument of Trust authorised and empowered such independent Wadia trustees to delegate their powers of allotment to BPP? Is BPP's handling of allotment lawful? Are there any reasonable materials to indicate that BPP and Wadia Baug trustees are sometimes throwing responsibility of some allotments to each other? - particularly regarding the "deposits".

Q.6: Is the acceptance of non-interest bearing refundable deposits (hereinafter "NIBARD") in consonance and consistent with the object of the trusts? Is it not in violation of the intention of the donor vide Q2 above?

Q.7: If the deposits are refundable, are they just kept deposited with BPP Trust, ready to be refunded if the allottee desires to vacate? OR does the BPP Trust use the 'deposits' for other purposes? There was a time when the BPP boasted of earning crores of rupees from flat - allotments and pompously declaring that they had "the Robin Hood policy of robbing the rich to help the poor." If the moneys are used for other purposes the receipts are not just deposits. It amounts to earning money and using it elsewhere. Is that lawful for a trustee to do? Does that violate the laws of trust and taxation? Are they taken as donation?

Q.8: Is Robin Hood still alive? If so, how many new buildings are constructed out of NIBARD from its start till date? What is the starting date of NIBARD?

Q.9: How are the NIBARD accounted for in the Books of BPP? Income? Contingent liability? Refundable on demand? If they are kept as deposits, how is the interest earned thereon accounted for? Is the interest used? If so, for what purpose?

Q.10: How many flats stand allotted to-day on the basis of NIBARD? How much amount is collected? and how much is spent and for what purpose?

Q.11: If something happens in Mumbai, which prompts a number of Parsis to evacuate the city, is BPP ready to refund their "deposits"? This is not an impossibility. During World War II, an enemy submarine was spotted in waters of Burma and there was a panic evacuation of Bombay. There can be a prediction of earthquake or tsunami or epidemic. A political or communal upheaval may develop, particularly when we are talking too much about conversion and our religion being "universal", In any case, once you receive money on a large scale from numerous "depositors", with an obligation to refund if demanded, you are developing a psuedo banking situation and Reserve Bank may one day raise its eye brows.

Q.12: Coming now to the five layer machinery of determining "deserving" allottees, (FA 2 above), who is this Investigator with a capital 'I' and which are the two layers of Administration with 'A' capital? What is the role of **Housing Advisory Committee** (HAC) of 6 members in maintaining the alleged transparency?

HOW HAC IS MADE TO WORK?

2 of the 6 members of HAC, Hoshang Vania and Zarir Bhathena are dreaming to join the holy circle of the seven. 2 others Phiroze Amroliwalla and Kersi Randeria were, before being inducted in HAC, making a lot of noise on the Estate-dealer mentality of the big seven. It is a tacit principle of corporate management that if some one questions too much on a particular function of the corporation, put him in an illusory charge of that function. That has happened here.

How is HAC made to function? They are first silenced by telling them, directly or indirectly, that the holy circle of the seven, includes two legal "luminaries" B H P Antia and D. B. Engineer - who have opined that NIBARD is quite legal. Phiroze and Kersi may not be aware that there is no illumination in law and that the fact of the two lawyers being the partners of old and well known solicitors' firms, does not induct any illumination to them. Solicitors are known to refer complicated questions of law to Counsel. The opinions of Solicitors and Counsel do not become the law. They are just 'opinions' of their reading of the law, which cannot even be produced before a Judge. In any case, have the two "illuminaries" given their opinions in writing? In fact, BPP has got two opinions in writing from good counsel expressing considerable doubt on NIBARD or any pecuniary consideration for allotment of flats held in charitable trusts. (The expression "pecuniary consideration" is used by BTD himself- vide FR6 above) So don't be lured, my dear Phiroze and Kersi, by big firms and high profile speeches on public or publicity stages. A speech on a stage is infinitely different from an address to a Court. (I know, as I do both).

The beauty of the situation is that **no allotment based on NIBARD is ever brought before HAC**. All that they are required to consider are the allotment of flats at Goregaon only which admittedly is not based on NIBARD. And there too, HAC have to accept what is presented to them by the "Administration"! They have not to question the Administrations' searches and researches They have just to accept them and then consider the relative merits and demerits of the cases. What is left there to consider?

Question: Of the total allotments made, what is percentage of flats above Rs. 15 lacs and below Rs. 15 lacs? That is, NIBARD based and non-NIBARD based? Should not you, Kersi and Phiroze, demand that EACH case should be brought before HAC? Is not the tall talk of BTD about "extensive efforts", "smoothing of rough edges" and "total transparency", a hog-wash?

Every Parsi is a beneficiary of every trust held by BPP. Every beneficiary has a right to ask whether the trusts are duly administered in accordance and in conformity with the objects of the trust. And the trustees are in duty bound to answer the questions. It is most unfortunate that the trustees are grossly misunderstanding their duties as their rights.

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A DREAM

Let me dream a little. There was a time when the BPP Trustees were different than the present lots. The difference set in, say, from Gorwalla's time. The pre Gorwalla trustees were reasonably humble and more service oriented than stiff necked. The ego-virus in them was dormant. Any Board of trustees with the typical Parsi disposition, which was well known all over the globe, would have worked and behaved differently than the present lots. The Parsi disposition was manifestly magnanimous, service minded, obliging, always rushing to help the needy and miserable. "Parsi thy name is charity" was a maxim that was canvassed even by Gandhiji and Tagore. BPP Trustees also reflected the Parsi disposition reasonably well. What would have been the state of affairs, had the present lots did that?

And that is my dream. When the whole of Bombay is delivered into the hands of greedy and edacious estate dealers, marketers, maneuvers and traffickers (shortly EDM - Virus), BPP could have avoided falling into that trap of the time. It could have scrupulously stuck to the object of the housing trusts namely to provide housing to the needy who could not afford to have a residence on ownership or tenancy, without charging any "pecuniary consideration" (BTD's own expression.) It would have endorsed the magnanimity of the Parsi disposition.

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One of the attacking points of EDM Virus was the land where the present "Spenta" building stands. Vultures were seen on the tall palm trees on the land. The land was a part of the Dokhma land and therefore it could not have been used for the alien object of housing. Had the trustees adopted legal steps to change the object? If not, it was a breach of trust. The law does not allow a change in the object of a religious trust unless it is cy-pres. Let the community know what was done by the trustees.

Assuming they had managed in some way with the law, EDM Virus worked so efficiently that original quoted price of a flat in Spenta was about Rs. 14 lacs which inflated to a crore! A huge charitable organisation by name BPP had lost its main element of charity. And as a bonus, spenta was immersed in the smell of corpses. The trustees had accelerated the declining process of the already endangered species of vultures. It can happen that EDM Virus will one day attack the whole of the Dokhma land. It is already preparing to do so since several years. It will one day suddenly appear with a big bang, like HIV Virus, and then there is no cure.

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Coming back to EDM Virus in housing, let me say this: All that I have said here is without any bad feeling towards any person and is in public interest and in consonance with the rights of the beneficiaries and the public duties of the trustees. Today, when the criminal law has encroached civil law in several aspects, it is in the interest of the good name of the Community, that BPP places its house in order, as regards its "largest reservoir" of housing, (as Mr. BTD chooses to call it), instead of dabbling with religious issues and having world trips, which is not strictly their function as trustees of Funds and Properties, as their title states.

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