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Public can sue govt officials for inaction

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NEW DELHI: Paving the way for making public servants accountable if they fail to perform their duties, a city court has stated that people can seek damages on account of their "inaction". Currently, no law exists under which government employees can be prosecuted or held liable for inaction. The move of seeking such damages, a first in the country except in defamation cases, if put to use effectively is likely to make public servants more responsible.

"Failure to act is an actionable wrong as much as any malafide action by such public servant for which the aggrieved person can seek damages for all the physical, mental, emotional, psychological, social and financial loss and sufferings caused to him. For this, a public servant would be liable in his personal capacity," Additional District Judge Kamini Lau said.

The judge noted that the general impression about personnel manning public institutions not performing and getting away with it needs to change. "It is this malaise which ails public institutions. Today that needs to be taken care of. It is time that public servants, particularly officers of the government, police, corporations, municipal bodies, etc, are made to answer for the inconvenience, trauma and loss caused to the public due to their failure to act on time and to make them liable for such inaction," the court said.

The court was hearing a civil suit filed by head constable Satish Chand against four other cops, including an inspector and an additional sub-inspector, who allegedly did not register an FIR on his complaint and instead booked him in a false case under Section 107/151 CrPC for breach of peace. Chand sued the four cops and sought a compensation of Rs 1 lakh on grounds of defamation and loss of reputation. His plea, however, was dismissed by a trial court so he appealed before the district court.

On June 2, 2004, the four cops refused to take action on Chand's complaint saying that his minor son was beaten up by some boys. In his plea, he said that instead of inquiring into the matter the cops started beating him and booked him in a false case in which he was later discharged.

The district court set aside the trial court order and marked the matter to a senior civil judge. "The claims of those aggrieved by action of public servants cannot be thrown out casually. Unfortunately, in the impugned judgment I find no discussion on some important aspects," it said.

The judge also raised concern in the manner senior officials of Delhi Police treat their juniors, observing that "it needs to be checked." "Merely because the appellant is a junior functionary in the same force, it does not mean that his dignity and self respect or his self esteem/ reputation can be trampled," the judge said.