

41, 50, 52, 56, 59, 60 #

% 14.05.2010

Present:- Ms. Purnima Sethi for the petitioner.
Mr. N.K. Jha for respondent MCD.
Ms. Saroj Bidawat for MCD.
Ms. Mansi Gupta for respondent.

**W.P.(C) Nos. 3282/2010, 3303/2010, 3307/2010,
3315/2010, 3319/2010, 3320/2010,**

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This order shall dispose of the present petitions filed by the petitioners seeking directions to direct the respondent MCD not to disallow them from hawking in the area known as Gali No.13-17, Govindpuri, Kalkaji, New Delhi.

The petitioners in these writ petitions claim that they have been hawking in the said area for the last twenty years and from time to time they were also challaned by the MCD. It has also been stated by the petitioners that they have already applied for allotment of hawking licence/tehbazari site to the MCD under the National Vending Policy. It has been further stated by the petitioners that they are all poor people and if they are

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physical file have been compared and
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prevented to hawk from the said area by the respondent MCD, then the petitioners and their respective families would starve as they have no other source of income.

Mr.N.K.Jha and Ms. Mansi Gupta enter appearance on advance notice. Mr. Jha on instructions submits that pursuant to the directions given by the Apex Court in ***Patri Vyapar Mandal Delhi Vs. MCD, Town Hall, 2009 (12) SCC 475***, the Zonal Vending Committee would be the appropriate authority to decide about the rights of these petitioners for the grant of hawking licence in the area where they are alleged to have been hawking.

Taking into consideration the aforesaid submissions of the counsel for the respondent MCD, let all these writ petitions filed by the petitioners be treated as representations by the Zonal Vending Committee. The Zonal Vending Committee shall take a decision on the claim of the respective petitioners in terms of the directions given by the Apex Court in ***Patri Vyapar Mandal's case (Supra)*** and also in terms of the National Vending Policy. It is also directed that the decision by the Zonal Vending Committee shall be taken as expeditiously as possible

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and till the final decision is taken by the Zonal Vending Committee, the parties are directed to maintain Status Quo. However, the respondent MCD shall ensure that the petitioners do not operate in non-hawking zone.

With these directions, the present petitions stand disposed of.

DASTI.

May 14, 2010
mg


KAILASH GAMBHIR, J.

Prshcm 10/32/2010 - for
recalling of above
order

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3282/2010

SHRI AVNISH GUPTA

..... Petitioner

Through: None.

versus

MCD

..... Respondent

Through: Ms. Saroj Bidawat, Advocate.

AND

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W.P.(C) 3303/2010

RAM VATI

..... Petitioner

Through: None.

versus

MCD

..... Respondent

Through: Ms. Saroj Bidawat, Advocate.

AND

39.

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W.P.(C) 3307/2010

GOPAL MODHAK

..... Petitioner

Through: None.

versus

MCD

..... Respondent

Through: Ms. Saroj Bidawat, Advocate.

AND

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W.P.(C) 3315/2010

RAJ KUMAR

..... Petitioner

Through: None.

versus

MCD

..... Respondent

Through: Ms. Saroj Bidawat, Advocate. I/-

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AND

41.

+ W.P.(C) 3319/2010

PUSHPA DEVI

..... Petitioner

Through: None.

versus

MCD

..... Respondent

Through: Ms. Saroj Bidawat, Advocate.

AND

42.

+ W.P.(C) 3320/2010

MUNNA LAL

..... Petitioner

Through: None.

versus

MCD

..... Respondent

Through: Ms. Saroj Bidawat, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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09.08.2010

CM No.10468/2010 (for restoration of CM No.10136/2010) in W.P.(C) No.3282/2010, CM No.10469/2010 (for restoration of CM No.10135/2010) in W.P.(C) No.3303/2010, CM No. 10471/2010 (for restoration of CM No.10132/2010) in W.P.(C) No. 3307/2010, CM No.10472/2010 (for restoration of CM No.10139/2010) in W.P.(C) No.3315/2010, CM No.10473/2010 (for restoration of CM No.10137/2010) in W.P.(C) No.3319/2010 & CM No.10470/2010 (for restoration of CM No.10138/2010) in W.P.(C) No.3320/2010.

These applications have been filed for restoration of the applications moved in each of the writ petitions and which were dismissed for non-

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prosecution on 2nd August, 2010. For the reasons stated in the applications, the same are allowed.

The applications, for restoration of which these applications have been filed are restored to their original positions.

The applications are disposed of.

CM No.10136/2010 (u/S 151 CPC for recall of the order dated 14.05.2010) in W.P.(C) No.3282/2010, CM No.10135/2010 (u/S 151 CPC for recall of the order dated 14.05.2010) in W.P.(C) No.3303/2010, CM No.10132/2010 (u/S 151 CPC for recall of the order dated 14.05.2010) in W.P.(C) No. 3307/2010, CM No.10139/2010 (u/S 151 CPC for recall of the order dated 14.05.2010) in W.P.(C) No.3315/2010, CM No.10137/2010 (u/S 151 CPC for recall of the order dated 14.05.2010) in W.P.(C) No.3319/2010 & CM No. CM No. 10138/2010 (u/S 151 CPC for recall of the order dated 14.05.2010) in W.P.(C) No.3320/2010.

The writ petitions were disposed of vide order dated 14th May, 2010 directing the writ petitions to be treated as representations of each of the petitioners to the Zonal Vending Committee and further directing the Zonal Vending Committee to take a decision on the claims of the respective petitioners *inter alia* in terms of the National Vending Policy. The parties were directed further to till the further decision maintain *status quo* subject to the petitioners not operating in the non-hawking zone.

The respondent MCD by these applications contends that the petitioners are not *tehbazari* licence holders and thus the order of *status quo*

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shall not apply to qua them. The counsel for the respondent applicant has also drawn attention to the order dated 24th May, 2010 in other writ petitions in which the order of *status quo* was subject to the petitioners therein being the *tehbazari* licence holders.

It is felt that no purpose will be served in issuing notices of these applications to the petitioners in as much as in the event of the petitioners taking a plea that they are *tehbazari* licence holders, and as they are likely to take, the matter will in any case have to be referred to the Zonal Vending Committee. The Zonal Vending Committee is the only Committee which is equipped to decide as to whether the petitioners are *tehbazari* licence holders or not and/or as to whether they are entitled to any hawking site or not. Thus, instead of keeping the matters pending over here, it is expedient that the Zonal Vending Committee decides the matters expeditiously. The Zonal Vending Committee is directed to decide at least on the aspect of whether the petitioners are *tehbazari* licence holders or not and thus entitled to be considered for hawking site or not within a period of 45 days from the date of communication of this order by the respondent MCD.

With the aforesaid directions, the applications are disposed of.

AUGUST 09, 2010/pp..

RAJIV SAHAI ENDLAW, J

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