

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 13th October, 2011

+ **W.P.(C) 10597-98/2005**

% **JAIPUR TAXI SERVICE & ANR. ...Petitioners**

Through: Mr. Shyam Moorjani, Adv.

Versus

COMMISSIONER OF POLICE Respondent

Through: Ms. Sangeeta Sondhi, Adv. for R-1&2
with Ms. Anita Roy, ACP (Traffic),
South-East.

Mr. Pawan Mathur, Adv. for R-3.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. Whether reporters of Local papers may
be allowed to see the judgment? Not Necessary.
2. To be referred to the reporter or not? Not Necessary.
3. Whether the judgment should be reported
in the Digest? Not Necessary.

RAJIV SAHAI ENDLAW, J.

1. The petitioners filed this petition pleading that a Taxi Stand was notified on 15th February, 1993 at Local Shopping Centre, Sector-C, Pocket-9, Vasant Kunj, New Delhi; that since then the petitioners have been

operating their taxis from the said Taxi Stand and serving the residents of the locality of Sarvapriya Vihar; that they were however on 05.06.2005 informed that the said Taxi Stand has been de-notified vide order dated 17.11.2004; their representations thereagainst remained unheeded. The petitioners in this writ petition seek the relief of restraining the respondents from removing the petitioners from the said Taxi Stand.

2. Notice of the petition was issued and vide order dated 01.07.2005 which continues to be in force, the operation of the order dated 17.11.2004 of the respondent No.2 DCP (Traffic) de-notifying the said Taxi Stand was stayed.

3. The order dated 17.11.2004 records that while notifying the said Taxi Stand, right to cancel the notification subsequently if warranted in public interest or on any objection raised by the land owning agency had been reserved; that a survey of the said Taxi Stand had been got conducted and which revealed that the Taxi Stand is on footpath which creates obstruction to the smooth flow of traffic. Accordingly, in exercise of powers under

Section 3 of the Delhi Control of Vehicular and other Traffic & Road Street Regulations, 1980, the said Taxi Parking Site was de-notified.

4. The respondent No.2 DCP (Traffic) in its counter affidavit has reiterated the reasons for de-notifying the Taxi Stand. It is stated that since the petitioners, inspite of de-notification had not removed the stand and their taxis, action for their removal was taken.

5. The respondent No.3 DDA in its counter affidavit has pleaded that since the respondent No.2 DCP (Traffic) had vide order dated 15.02.1993 ordered that a General Taxi Stand for parking five taxis should be earmarked at the site in question, the said site was allowed to be used as the Taxi Stand but now that the respondent No.2 DCP (Traffic) has deemed it appropriate to de-notify the Taxi Stand, the land could not be allowed to be used as such.

6. The counsel for the petitioners during the hearing on 29.01.2010 stated that the petitioners without prejudice to their rights and contentions were prepared to make a representation for allotment of any other suitable alternative site in Sector-C, Vasant Kunj for a General Taxi Stand consistent

with the norms. The counsel for the respondent No.2 DCP (Traffic) also stated that the said representation of the petitioners shall be considered.

7. On 19.04.2010 the counsel for the respondent No.2 DCP (Traffic) informed that an alternative site for halting and parking of taxis at the end of Local Shopping Complex, Sector C-9, Vasant Kunj, New Delhi had been identified; that the said site was suitable only as a “Halt & Go” place for taxis and no objection from the respondent No.3 DDA with respect thereto had been sought. The matter thereafter was being adjourned from time to time awaiting the decision of the respondent No.3 DDA.

8. Ultimately on 25.03.2011 a letter dated 21.02.2011 of the respondent No.3 DDA informing the respondent No.2 DCP (Traffic) that a General Taxi Stand at the site in Local Shopping Centre Complex, Sector C-9, Vasant Kunj, New Delhi was not suitable from the planning point of view, was produced. The counsel for the petitioners then sought time to obtain instructions.

9. On 22.07.2011, the counsel for the petitioner stated that an alternative

site had already been allotted to the petitioners by the respondent No.3 DDA and only a formal notification with respect thereto remains to be issued; adjournment was sought.

10. However, when the matter came up on 12.10.2011 the same request was reiterated. Finding that the petitioners by making said request were perpetuating the interim protection whereunder they were continuing to operate a Taxi Stand at a site which six years ago had been declared as obstructing the traffic, the matter was posted for today and the concerned officials of the respondent No.3 DDA and the Police directed to appear in person.

11. Today, a letter dated 18.07.2011 of the respondent No.3 DDA to the DCP (Traffic) has been handed over. The respondent No.3 DDA under cover of the said letter has annexed a copy of Plan of C-9, Local Shopping Centre at Vasant Kunj, New Delhi duly indicating the location of Temporary General Taxi Stand at point "A" for notifying the site as Temporary General Taxi Stand/ Free Taxi Parking Site. The letter also requests the respondent

No.2 DCP (Traffic) to ensure that only five parking bays are used for the Taxi Stand and there is no misuse of other part of the parking area and the allotment should be purely on temporary basis and no permanent structure should be erected at site.

12. Ms. Anita Roy, ACP (Traffic), South-East present in Court states that now there is no policy of issuing licences of any sites for use as a Taxi Stand and only parking bays for the purpose of “Halt & Go” are notified. She clarifies that in the said parking bays, no particular taxi or taxi operator can claim a right to park the vehicle and any taxi belonging to whosoever can be parked therein on first come first basis and subject to availability. It is further stated that no booth, permanent or temporary as used to be earlier permitted for Taxi Stands can also be allowed.

13. I may mention that this Court has in the order dated 27.09.2011 in W.P.(C) No.7157/2011 titled ***Balvinder Singh Vs. Commissioner of Police*** has also noticed the said policy qua Taxi Stand. It may also be noticed and is confirmed by the counsel for the petitioners also that no allotment in

favour of the petitioner of the Taxi Stand with respect whereto the petition was filed and with respect whereto the petitioners have been enjoying the interim order was at any time made. The petitioners thus do not have any right thereto and the right even then was only to park awaiting fare was of all taxis not necessarily of the petitioners. A perusal of the photographs filed by the petitioners along with their petition however show the petitioners to have put up their board and camping site at the Taxi Stand. The petitioners neither earlier nor now are entitled to do so. Only the driver of a parked taxi has a right to wait in the said parking bay awaiting the fare as aforesaid.

14. The counsel for the petitioners also states that the petitioners are not claiming any other right except that the parking bays proposed by the respondent No.3 DDA in its letter dated 18.07.2011 be notified as “Halt & Go” space.

15. The ACP (Traffic) present in Court states that she has no objection thereto in accordance with policy.

16. A further perusal of the order dated 15.02.1993 of the respondent

No.2 DCP (Traffic) notifying the Local Shopping Centre, Sector-C, Pocket-9, Vasant Kunj as a Taxi Stand shows that even the said order was on a temporary basis and did not permit any permanent or temporary structure to be erected by any person or group of persons.

17. I am also of the view that no case whatsoever for interfering with the decision contained in the order dated 17.11.2004 of the respondent No.2 DCP (Traffic) to the effect that the site earlier notified was no longer suitable from the traffic point of view is made out. Rather the counsel for the petitioner has not even urged any error therein.

18. Thus the petitioners cannot be said to be having any right to restrain the respondents from removing the petitioners from the site earlier notified as a Taxi Stand and which has since been de-notified. Accordingly, the interim order earlier in force is vacated forthwith and the writ petition is dismissed. However, in view of what has transpired hereinabove, the respondent No.2 DCP (Traffic) is directed to in accordance with law and policy issue the necessary notification qua the site shown at point "A" in the

site plan annexed to the letter dated 18.07.2011 as a halt and go site for five taxis.

No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

OCTOBER 13, 2011
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