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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
20+ W.P.(C) No.6233/2015, CM No.11350/2015 (for stay) & CM No.11351/2015 (for direction).

SUNIL KUMAR KHULLAR Petitioner

Through: Mr. Anand Mishra, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION
(SDMC)

..... Respondent

Through: Mr. Mukesh Gupta, Adv. for SDMC.

AND

21+ W.P.(C) No. 6257/2015 & CM No.11381/2015 (for stay).

MR. SHYAM MALLIK

..... Petitioner

Through: Mr. Anand Mishra, Adv.

versus

SOUTH DELHI MUNICIPAL
CORPORATION (SDMC)

..... Respondent

Through: Ms. Mansi Gupta, Adv. for SDMC.

AND

22+ W.P.(C) No.6264/2015 & CM No.11388/2015 (for stay).

M/S PIONEER PUBLICITY CORPORATION
PVT. LTD.

..... Petitioner

Through: Mr. Anand Mishra, Adv.

versus

EAST DELHI MUNICIPAL CORPORATION
& ANR

.... Respondents

Through: Mr. Arvind Sharma, Addl. Standing
Counsel for R-1/EDMC.

Ms. Mini Pushkarna & Ms. Yoothica
Pallavi, Advs. for R-2/NrDMC.

AND

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23+ W.P.(C) No.6276/2015, CM No.11407/2015 (for stay) and CM No.11408/2015 (for direction).

M/S CONSECIENT INFRASTRUCTURE Petitioner

Through: Mr. Anand Mishra, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent

Through: Ms. Mansi Gupta, Adv. for SDMC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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06.07.2015

W.P.(C) No.6233/2015

1. On 3rd July, 2015 when all these matters came up first before the Court, the following order was passed:

“3. On first call, though passover was sought on behalf of the respondents but it was enquired from the counsel for the petitioners whether these petitions are the same as W.P.(C) No.6105/2015 and other connected petitions in which judgment has been reserved on 1st July, 2015.

4. The counsel for the petitioners states that these matters are different and are with respect to advertisements in public places as distinct from the advertisements installed on private properties though visible from the street. With reference to W.P.(C) No.6233/2015, it was argued that the same concerns flag signs. Attention was invited to page 59 thereof, being the NOC and it is stated that the petitioner has paid up-to-date licence fee. A perusal of the NOC shows that the same is with respect to flag signs at MCD authorized parking lot at B.K. Dutta

Market, Rajouri Garden, New Delhi (West Zone). The counsel for the petitioner has next invited attention to the photographs at pages 60 to 62 to contend that the flag signs indeed are in the parking and not on the road, on which ground the NOC has now been withdrawn by the respondent SDMC.

5. From a perusal of the photographs it appears that the flag signs are on the portion of the road demarcated for parking.

6. The matters on passover could not reach. List on 6th July, 2015."

2. Today, on request of counsels, the petitions are taken up separately.

3. As far as **W.P.(C) No.6233/2015** is concerned, the counsel for the respondent South Delhi Municipal Corporation (SDMC) has handed over photocopy of 11 photographs but of which violation by installation of flag-sign on the footpath is shown only in one. However on enquiry whether the parking area with respect to which the NOC to display 10 flag-signs has been given is between the footpath and the road, the counsel for the respondent SDMC states that though the Superintendent of the SDMC is present in Court but the concerned Advertising Inspector who would be in the know is not present.

4. It is however the admitted position that in this case no hearing before withdrawal of the NOC has been given to the petitioner.

5. The counsel for the petitioner has invited attention to the order dated

29th May, 2015 of the Division Bench in LPA No.384/2015 titled *M/s Outdoor Associates Vs. South Delhi Municipal Corporation* by which SDMC was directed to inform the advertisers of deficiency in the advertisements within one day and the advertiser was given two days time to remove the deficiencies and it was directed that if the deficiency is removed within two days, the NOC shall continue for its duration.

6. Accordingly, W.P.(C) No.6233/2015 is disposed of with a direction that a joint inspection be carried out of the flag-signs with respect to which NOC was given to the petitioner, within a period of one week of today and the deficiencies if any found be communicated in writing to the petitioner within the said time and if the petitioner does not remove the deficiency within a period of two days of the giving of such communication, to pass a fresh reasoned order of withdrawal of NOC. Needless to state that in the light of the above, the impugned order dated 17th June, 2015 stands set aside.

7. It is argued that the joint inspection will be carried out on 8th July, 2015 at 1400 hours.

W.P.(C) No.6257/2015

8. This petition has been filed impugning the order dated 8th June, 2015

of the respondent SDMC cancelling the contract with the petitioner with respect to Unipole SZ-66, Open Land opposite City Walk Mall, Khirki Village on the ground of the petitioner being in arrears of licence fee to the tune of Rs.33,54,982/-.

9. On enquiry, the counsel for the petitioner admits that there are arrears under the said contract but contends that the petitioner has applied for adjustment of the amount admittedly due under the said contract as against the refund due to the petitioner under the order dated 13th April, 2015 in W.P.(C) No.3503/2015 titled *Shyam Mallik Vs. South Delhi Municipal Corporation* and which order was in terms of the judgment dated 18th April, 2015 of this bench in W.P.(C) No.4436/2010 titled *Sports & Leisure Apparel Ltd. Vs. MCD*.

10. The counsel for the respondent SDMC controverts that the petitioner is entitled to so adjust the licence fee due with respect to the said site, which was a tender site.

11. The counsel for the petitioner at this stage does not press this petition and only seeks time of two weeks for clearing the arrears. He however, though is not able to state the amount due according to the petitioner, states that the accounts need to be reconciled.

12. W.P.(C) No.6257/2015 is disposed of with an undertaking of the petitioner through advocate to pay 50% of the amount claimed of Rs.33,54,982/- to the respondent SDMC on or before 13th July, 2015 and to within the said time approach the officials of the SDMC for re-conciliation if any required of the accounts and to on or before 20th July, 2015 pay either balance 50% of Rs.33,54,982/- or any other lesser amount if found due on reconciliation.

13. If the petitioner complies with each of his undertaking, the Unipole shall not be interfered with by the SDMC. However if the petitioner is in breach of any of the parts of the undertaking, the respondent shall be entitled to take appropriate action with respect to Unipole. The petitioner has been made aware of the consequences of breach of undertaking given to the Court.

W.P.(C) No.6264/2015

14. This petition has been filed seeking the relief of quashing of the show cause notices dated 5th June, 2015 and 9th June, 2015 issued by the respondent No.2 North Delhi Municipal Corporation (NrDMC) and the show cause notices dated 9th June, 2015 issued by the respondent No.1 East Delhi Municipal Corporation (EDMC) to the petitioner with respect to the

various advertising sites with respect to which NOCs were issued to the petitioner. The petition alternatively seeks a direction to the respondents not to take any coercive action against the petitioner before passing of any order in pursuance to the said show cause notices.

15. The counsel for the respondent No.2 NrDMC informs that the show cause notices issued to the petitioner were with respect to 13 Wall Wrap sites and on account of blatant violations of the terms on which the NOC was given i.e. of making advertising installations larger than for which NOC was issued and also putting up hoardings over the rooftop and which is not permissible under the Outdoor Advertising Policy.

16. The counsel for the respondent No.1 EDMC states that the notices are with respect to six sites and otherwise the reason for issuing the show cause was the same.

17. The counsel for the respondent No.2 NrDMC further states that action for removal of offending advertisement has already been taken with respect to nine out of the 13 sites with respect to which notices were issued. On enquiry, as to how the removal action could be taken before passing any

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order in pursuance to show cause notices, the counsel states that show cause notices are for cancellation / withdrawal of the NOC and the action of removal was in accordance with the direction contained in the order dated 6th May, 2015 of the Division Bench of this Court in W.P.(C) No.3367/2015 tiled ***Colonel Shivraj Kumar Vs. South Delhi Municipal Corporation***.

18. The counsel for respondent No.1 EDMC, on instruction states that joint inspection of some of the six sites has already taken place and the orders in pursuance to show cause notices shall be served.

19. The counsel for the petitioner however invites attention to the order dated 29th May, 2015 of the same Division Bench in LPA No.384/2015 tiled ***M/s Outdoor Associates Vs. South Delhi Municipal Corporation*** by which a modality for joint inspection and opportunity for removal of the deficiencies found, before taking action in accordance with the order dated 6th May, 2015 (supra) was devised.

20. The counsel for petitioner controverts that NrDMC has taken action with respect to nine sites, though admits that action with respect to some of the sites has taken place but is unable to state with respect to how many. He also gives up the first relief claimed in the petition, of challenge to the show cause notice.

21. As far as the legality of the action if any already taken by the NrDMC, it is open to the petitioner to claim the appropriate relief with respect thereto in the appropriate proceedings and no direction with respect thereto is to be issued herein. This petition is accordingly disposed of with a direction to NrDMC as well as EDMC to, with respect to the sites with respect to which removal action has not been taken till now, within a period of 10 days from today, conduct joint inspection and if find any deficiency therein, give opportunity to petitioner to remove the same and to pass orders in pursuance to show cause notices issued. If however such an inspection has already been carried out and opportunity to rectify been given, then the process need not be repeated. Unless the orders are in favour of the petitioner and / or the respondents agree with the petitioner removing the deficiency, further action for removal of the advertisements shall be taken only after a period of 10 days from today.

22. The petitioner to visit the office of the respondent No.1 EDMC at 1100 hours on 8th July, 2015 and office of the respondent NrDMC at 1400 hours on 9th July, 2015 in this regard.

The petition is disposed of.

W.P.(C) No.6276/2015

23. The counsels state that the position in this petition is the same as in W.P.(C) No.6105/2015 titled *M/s Pareena Estate Vs. South Delhi Municipal Corporation* and other connected petitions in which orders have been reserved on 1st July, 2015.

24. Arguments heard.

25. Judgment reserved, to be pronounced along with judgment in W.P.(C) No.6105/2015 and other connected petitions.

Dasti under signature of the Court Master.

JULY 06, 2015
'gsr'

RAJIV SAHAI ENDLAW, J