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$~34 to 42, 44 & 45

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

\+ **W.P.(C) 2021/2015 & CM No.3628/2015, W.P.(C) 2024/2015 & CM No.3631/2015, W.P.(C) 2025/2015 & CM Nos.3632-33/2015, W.P.(C) 2026/2015 & CM No.3635/2015, W.P.(C) 2029/2015 & CM No.3638-39/2015, W.P.(C) 2032/2015 & CM No.3642/2015, W.P.(C) 2038/2015 & CM No.3651/2015, W.P.(C) 2041/2015 & CM No.3656/2015, W.P.(C) 2045/2015, W.P.(C) 2063/2015 & CM No.3696/2015 & W.P.(C) 2065/2015 & CM No.3699/2015**

Present: Mr Anand Shailani, Advocate for petitioner in item nos.34, 35, 37, 39, 41 & 45.
Mr M. R. Singh, Advocate for petitioners in item nos.36 & 38.
Mr Vinod Wadhwa, Advocate for R-2 in item no.34.
Mr Devendra Kumar, Advocate for Mr Anjum Javed, Advocate for R-2 in item no.35 & 41.
Mr Jagdeep Kr. Sharma, Advocate for respondent/GNCT in item no.36.
Dr K. S. Bharti, Advocate for respondent/SDMC in item no.39.
Mr Pankaj Batra, Advocate for R-2/Delhi Police in item no.38.
Ms Nikhita Khetrapal, Advocate for Ms Nidhi Raman. Advocate for R-2 in item no.45.
Mr S.K. Tripathi, Advocate for petitioners in item Nos. 40, 42 & 44. Mr Mohinder Madan & Mr Pratap Chandra Rana, Advocate MCD in item No. 41.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 03.03.2015

The petitioners have filed the present petitions seeking an injunction restraining the respondents from disturbing the petitioners in carrying on with their respective trades. The petitioners claim to be squatters who are carrying on their respective trades on the streets. This is disputed by the learned counsel for the respondents. The learned counsel for the parties point out that several similar petitions have been considered by this Court

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and have been disposed of with a direction, enabling the petitioners to make representations before the Committee to be constituted under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter the 'Act') which has come into force w.e.f. 04.03.2014. The learned counsel for the petitioners rely upon one such order passed in W.P.(C) No.5580/2014, which reads as under:-

> "Present writ petitions have been filed seeking a direction to the respondents not to obstruct or disturb the petitioners in carrying on their trade from their respective sites till the Town Vending Committee of NDMC issues certificate of vending to the petitioners in accordance with Section 3(3) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereinafter referred to as 'Act, 2014') and in terms of order dated 09th September, 2013 passed by the Supreme Court in ***Maharashtra Ekta Hawkers Union and Another vs. Municipal Corporation, Greater Mumbai and Anr., 2013(11) SCALE 329***.
>
> Learned counsel for petitioners relies on Section 3(3) of the Act, 2014 to pray that petitioners be allowed to continue to squat at their respective sites.
>
> In support of his submissions, he relies upon the judgment of the Supreme Court in ***Maharashtra Ekta Hawkers Union and Another*** (supra) wherein it has been held as under:-
>
> > *"16. For facilitating implementation of the 2009 Policy, we issue the following directions:*
> >
> > *xxxx xxxx xxxx xxxx*
> >
> > *(xv) All the existing street vendors / hawkers operating across the country shall be allowed to operate till the exercise of registration and creation of vending / hawking zones is completed in terms of the 2009 Policy. Once that exercise is completed, they shall be entitled to operate only in accordance with the orders/directions of the concerned Town Vending*

Committee."

Learned counsel for respondent-NDMC who appears on advance notice, states that the petitioners are not existing squatters and are, therefore, not entitled to protection under Section 3(3) of Act, 2014.

Learned counsel for respondent-NDMC further states that in accordance with the Act, 2014, petitioners should raise their grievances before the Town Vending Committee (hereinafter referred to as 'Committee').

Learned counsel for respondent-NDMC also states that though the Committee has been appointed, yet it is not functional as of today.

In rejoinder, learned counsel for petitioners vehemently disputes the contentions advanced by learned counsel for respondent-NDMC.

Having heard learned counsel for parties, this Court is of the view that disputed questions of fact are involved in the present petitions. This Court is also of the opinion that in view of the Act, 2014 having come into force on 4th March, 2014, the appropriate forum to decide the lis between the parties is the Committee.

The Act, 2014 provides for constitution of a Committee which is to conduct survey of all existing street vendors and make the scheme for relocation. Section 3(3) of the Act, 2014 clearly states that no street vendor shall be evicted or relocated till survey specified under sub-Section(1) has been completed and the certificate of vending has been issued to all street vendors.

Consequently, the respondent-NDMC is directed to make the Committee functional as within eight weeks. Petitioners are permitted to file their representations with the Committee within a period of eight weeks.

Upon the said representations being filed, the Committee is directed to decide the same expeditiously, preferably within six months.

With the aforesaid directions, present writ petitions and applications are disposed of."

The learned counsel for the respondents submit that although it had been stated that a Committee under the Act had been constituted, however, the correct fact is that the Committee is yet to be constituted. He also points out that the directions have already been issued by this Court for constitution of the Committee in a time bound manner and the Committee is expected to be functional within a few months.

In the circumstances, the present petitions and the pending applications are disposed of in terms of the order dated 29.08.2014 passed in W.P.(C) No.5580/2014 and the petitioners are permitted to make representations to the Committee as and when constituted.

Order dasti.

VIBHU BAKHRU, J

MARCH 03, 2015
MK