

3

\$~34 & 5

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

+ W.P.(C) 6533/2015 & CM No.11891/2015 (for stay)

AKASH

..... Petitioner

Through: Mr. M.M. Kashyap, Adv.

Versus

NORTH DELHI MUNICIPAL CORPORATION Respondent

Through: Ms. Monika Arora and Mr. Harsh Ahuja, Advs

AND

+ W.P.(C) 6245/2015 & CM No.11364/2015 (for stay)

KARAN SINGH

..... Petitioner

Through: Mr. Ram Narayan Singh, Adv.

Versus

NEW DELHI MUNICIPAL COUNCIL & ANR Respondents

Through: Mr. Arjun Pant, Adv. for R-1/NDMC.
Mr. Sanjoy Ghose, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

10.07.2015

1. Both these petitions have been filed by persons claiming to be street vendors and seeking to restrain the respondents North Delhi Municipal Corporation (NrDMC) and New Delhi Municipal Council (NDMC) having jurisdiction over the locality, where they claimed to be street vending from dispossessing them from the respective sites.

2. A number of similar petitions of street vendors including by the Advocate who has filed W.P.(C) No.6533/2015 came up before this Court on 30th June, 2015, when after extensive hearing the said petitions were

W.P.(C) 6533/2015 & W.P.(C) 6245/2015

Page 1 of 3

4

disposed of and all the Advocates filing petitions on behalf of the street vendors were requested to advise their clients in accordance therewith. It was further observed in the said order that similar petitions if any filed thereafter shall be dismissed with exemplary costs. Notwithstanding the same, these petitions have been filed.

3. On the contention of the counsel for the petitioners that certain aspects remained to be considered in the order dated 30th June, 2015 in W.P.(C) No.6115/2015 titled ***Brahm Pal Vs. New Delhi Municipal Council*** and in other connected petitions, the counsels have again been given an opportunity of hearing.

4. The counsels state that though Sections 36 & 38 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 required the appropriate government to make / frame Rules and scheme, within a period of one year and six months respectively from the coming into force of the Act on 4th March, 2014 but have failed to do so till now. It is stated that owing thereto, the Town Vending Committee cannot be constituted. It is yet further argued that though this Court in order dated 30th October, 2014 in W.P.(C) No.7337/2014 titled ***Nagendra Yadav Vs. New Delhi Municipal Council*** had directed for the Town Vending Committee to be constituted within eight weeks but even that order has been violated. It is thus argued that when the appropriate government itself has allowed such a state of affairs to come into existence, the said street vendors have to be protected in accordance with the dicta of the Supreme Court in ***Maharashtra Ekta Hawkers Union Vs. Municipal Corporation Greater Mumbai*** 2013 (11) SCALE 329.

5. It is not as if, these arguments were not been made during the hearing on 30th June, 2015. However, the said arguments were not based on any pleadings contained in any of the petitions which were for consideration on 30th June, 2015. No such pleadings have been made in either of these petitions also. Though the counsels for the petitioner state that they will file an amended memorandum of parties, impleading the Govt. of NCT of Delhi, as a party to these petitions but the same will not serve any purpose, inasmuch as these petitions lack any pleadings, on the basis whereof the arguments have been made.

6. The fact thus remains that notwithstanding the caution issued in the order dated 30th June, 2015 supra of this Court, these petitions have been filed. The petitions in accordance with the said order will have to be dismissed with exemplary costs.

7. The counsels of course state that these petitions were ready in June, 2015 and first happened to be filed after the order dated 30th June, 2015 of this Court.

8. Taking a lenient view of the matter, the petitions are dismissed with costs of Rs.200/- on each of the petitioners. Cost be paid to the concerned Municipality, as a pre-condition for consideration of any application to be made by the petitioner(s) to the Town Vending Committee.

9. . On request of the counsels for the petitioners, it is clarified that the dismissal of these petitions will not come in the way of the petitioners or any other street vendors filing a substantive petition, in terms of the arguments which have been raised today.

RAJIV SAHAI ENDLAW, J.

JULY 10, 2015/bs..

W.P.(C) 6533/2015 & W.P.(C) 6245/2015

Page 3 of 3