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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9715/2015**
LAL BAHADUR & ANR Petitioners
Through: **Mr. M.P. Shukla, Adv.**

Versus

NEW DELHI MUNICIPAL COUNCIL Respondent
Through: **Mr. Sri Harsha Peechara & Mr. Mananjay Mishra, Adv.**

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **08.02.2016**

CM No.4652/2016 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CM Nos.4651/2016 & 4653/2016 (of the petitioners for restoration of the petition dismissed in default on 1st December, 2015 and for condonation of 45 days delay in applying therefor)

3. Though notice of the petition or these applications has not been issued but the counsel for the respondent appears on advance notice.
4. For the reasons stated, the delay in applying for restoration is condoned and the petition is restored to its original position.
5. The applications are disposed of.

W.P.(C) 9715/2015

6. The two petitioners seek to restrain the respondent New Delhi Municipal Council (NDMC) from disturbing the petitioners from vending in

Raja Bazar, Gurudwara Bangla Sahib Road, Mini Market, Connaught Place, New Delhi.

7. I have vide detailed orders in similar petitions i.e. order dated 30th June, 2015 in W.P.(C) No.6115/2015 titled ***Brahm Pal Vs. New Delhi Municipal Council*** and other connected petitions and order dated 11th August, 2015 in W.P.(C) No.6694/2015 titled ***Rajnesh Vs. South Delhi Municipal Corporation*** and other connected petitions have *inter alia* observed that even though the Town Vending Committee within the meaning of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 has not been constituted as yet but protection as is sought in this petition cannot be granted *inter alia* for the reasons that the provision in that regard already exists in the Act and for the reason that for this Court to return any finding, factual enquiry will have to be conducted, whether the petitioners are street vending from the location claimed or not and which inquiry is not in the domain of this Court but is to be conducted by the Town Vending Committee to be constituted.

8. The counsel for the petitioner states that the order in ***Rajnesh*** supra and other connected petitions was subject matter of appeals before the Division Bench which has vide order dated 6th November, 2015 set aside the order and remanded the petitions to the Single Judge and which are now listed on 23rd February, 2016. He states that this petition be thus also entertained.

9. What prevailed with the Division Bench was the fact that the appellants/petitioners before the Division Bench were having favourable

order in their favour from the erstwhile Zonal Vending Committee as also of the Appellate Authority. It has as such been enquired, whether the petitioners herein also have any such favourable order.

10. I am informed that the petitioners have none. Though reasons are sought to be given therefor but the same are not relevant. It is stated that the petitioners then did not deem it appropriate to approach the Zonal Vending Committee / Appellate Authority under the earlier regime because they were then not being disturbed.

11. Even under the earlier regime, the petitioners, if street vending, were required to approach the Zonal Vending Committee and the factum that the petitioners did not so approach is indicative of the petitioners then not street vending and / or then being not entitled to or desirous of having street vending regularised.

12. I may in this regard mention that the Street Vendors Act does not give any preferential rights to those who had been found eligible for street vending under the earlier regime and the Rules thereunder have been notified recently only.

13. I am of the view that without verification, if the persons such as the petitioners herein are granted protection, the same would come in the way of the Town Vending Committee constituted under the new Act also performing its functions and would lead to chaos on the streets. Moreover, there is already protection contained in the Act and for this reason also no need for an order of the Court is felt.

14. I may however notice that since then the Rules and the Scheme have been framed and the constitution of the Town Vending Committee is underway.

15. The petition is therefore dismissed. No costs.

16. At this stage, the counsel for the petitioners states that liberty be given to the petitioners to apply to the Town Vending Committee.

17. Permission is so granted.

RAJIV SAHAI ENDLAW, J

FEBRUARY 08, 2016

‘gsr’..