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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Order: 19th April, 2017

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W.P.(C) 1888/2017

SITAR SINGH & ORS.

..... Petitioners

Through

Mr.Sumit Kumar Singh and Ms. Renu
Singh, Advocates

versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through

Mr. Sri Harsha Peechara, ASC with
Mr. Mananjay Mishra and Ms. Vidhi
Jain, Advocates.

Mr. Mohit Kumar, Advocate for
Sarojini Nagar Market Association.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

G.S.SISTANI, J. (ORAL)

1. The present writ petition has been filed by 31 petitioners seeking a direction to the New Delhi Municipal Corporation(NDMC) to hand over the respective vending sites allotted to them in terms of a draw held on 10.05.2012.
2. Mr. Sumit, the learned counsel for the petitioners submits that the petitioners have been squatting in the Sarojini Nagar Market since a long period of time. The petitioners had approached this Court in the year 2011 and in some cases protection was granted to them by the

High Court. The details of the writ petitions and orders so passed have been detailed in paragraph 2 of this writ petition. Counsel submits that the NDMC had prepared a list of 628 eligible street vendors for allotment of 386 available squatting sites in the year 2012. According to the petition, the names of the petitioners were found mentioned in the list of 628 persons. The name of the each petitioner and serial number has been extracted in para 6 of the writ petition.

3. It is also the case of the petitioners that pursuant to the determination of eligibility, the NDMC announced the 386 sites through a draw of lot which was scheduled on 10.05.2012. The NDMC issued letters to the petitioners and similarly situated eligible squatters to participate in the draw. It is also the case of these petitioners that in the draw conducted by the NDMC on 10.05.2012, all the said petitioners succeeded and were issued allotment letters. Post-the allotment letters, the petitioners were asked to deposit the registration charges of Rs.1000/- each, which they claim to have been deposited. It is submitted by the petitioners that consequent upon the allotment letters issued, a right has accrued in their favour and seek a direction for finalization of the allotment.
4. Mr. Harsha Peechara, learned counsel for the NDMC, who enters appearance on an advance copy, submits that the entire process of allotment was stayed by the Supreme Court of India by an order dated 31.01.2013 passed in IAs. No.411-412 in Writ Petition(Civil) No.1699/1987 in the case of ***Gainda Ram and others v. M.C.D. and others***. The operative portion of the order reads as under:

“Learned Additional Solicitor General made a request for grant of four weeks’ time within which he would consult the concerned public and other authorities of Government of NCT of Delhi as also the Central Government for preparing a new plan keeping in view the national policy and the legislation enacted by the legislature of NCT of Delhi.

For further arguments and consideration of the issues raised by the parties, these matters shall be listed on 05.03.2013.

Till the next date, complete status quo shall be maintained in respect of all those who are engaged in hawking and street vending as on today. Learned Additional Solicitor General pointed out that the person to whom the sites were allotted on the basis of the lottery draw in 2012 in Connaught Place, Sarojini Nagar and other areas of NDMC, allotments letters are being issued pursuant to an order passed by the learned Single Judge of the Delhi High Court.

Since this Court is examining various issues, we deem it proper to direct the NDMC not to act upon the direction given by the Delhi High Court till the next date of hearing.

We also request the Delhi High Court not to entertain any petition by or against the hawkers and street vendors till the matter is heard and decided by this Court.

The Registry is directed to send a copy of this order to the Registrar General of the Delhi High Court who shall place the same before the Hon’ble the Chief Justice of the High Court.

The direction of status quo passed today shall operate in the entire area of NCT of Delhi.”

5. The attention of this Court is also drawn to the order passed in *Maharashtra Ekta Hawkers Union and Another v. Municipal Corporation, Greater Mumbai and Others*, reported at (2014) 1 SCC 490. While, the counsel for the petitioners submits that a reading of

this judgment would show that till the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 becomes law, it would be upon for the High Court to step-in in the matter. It was also directed that the policy of 2009 would continue to remain applicable. Learned counsel for the NDMC submits that a complete reading of the order would show that the objective was to bring in an Act as early as possible so that the rights of the street vendors are regulated. He further submits that after the passing of the final judgment, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 came into force and all actions initiated prior thereto would become a nullity and all future allotments are to be made in terms of the Act. After the Act has come into force, the NDMC does not have the power to make allotments and thus, the draw held would remain a still-born child.

6. We have heard the learned counsel for the parties. It is not in dispute that the NDMC prepared a list of 628 eligible persons in the year 2012. It is also not in dispute that since 386 sites were available, the NDMC decided to conduct a draw of lots to allot 386 sites out of 628 eligible street vendors. It is also not in dispute that the names of the petitioners figured in the 628 eligible persons and they were declared successful in the draw of lots held on 10.05.2012. Petitioners were also given allotment letters and were directed to deposit the registration fee. However, before the rights of the petitioners could be finalised, all further proceedings were stayed by the Hon'ble Supreme Court of India as is evident upon the reading of the order dated

31.01.2013 which has been extracted in para 3 foregoing. It is also not in dispute that thereafter, in the case of ***Maharashtra Ekta Hawkers Union and Another(supra)***, while disposing of the writ petitions, the Hon'ble Supreme Court of India had expressed hope that the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 would become a law and the livelihood of millions of street vendors would be saved as they will get protection from consistent harassment and victimization which has so far been the order of the day.

7. The learned counsel for the petitioners has pointed to para 20 of this judgment to show that till the passing of the Act, it would be for the Court to step in and direct that the policy of 2009 would be implemented. We are of the view that as of today the directions contained in paragraph 20 of the judgment would be of no help to the petitioners. There is no explanation on behalf of the petitioners as to why after the passing of this order in the year 2013, the petitioners did not approach the NDMC or this Court till the year 2017. This aspect gains significance for the reason that after the passing of the order, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 came into force in March, 2014, as per which all the street vendors are to be governed by the Act and not as per the earlier policy. Any right which may have accrued in favour of the petitioners at that stage cannot be enforced in view of the subsequent sequence of events and as of now, there is no power vested with the

respondents to make any allotment as the allotment is finally to be made by the Town Vending Committee (TVC).

8. Resultantly, we find no merit in this writ petition; the same is accordingly dismissed.
9. No costs.

G. S. SISTANI, J.

VINOD GOEL, J.

APRIL 19, 2017

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