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

+ **W.P.(C) 2665/2017**

GEET NAND NARA

..... Petitioner

Through Mr. Jai Prakash and Mr. Mayank Sharma,
Advocates

versus

**DELHI MUNICIPAL CORPORATION SOUTH WEST ZONE AND
ORS**

..... Respondents

Through Ms. Archana Sharma, Advocate for
respondent no.1/SDMC
Mr. Sanjeev Sabharwal, Standing Counsel
for respondent no.2/DDA.
Ms. Sona Babbar, Advocate for
Mr. Peeyoosh Kalra, ASC for respondent
no.3/GNCTD.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

O R D E R

% **23.03.2017**

CM.APPL 11593/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

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Petitioner claims to be running a street business in the name and style of 'Food Factory on Wheels' at Sector 12, Venketeshwara School, Sam International School, DDA Park, Dwarka, New Delhi since January, 2017. The petitioner has also applied for a licence from the Food Safety and Standards Authority of India ('FSSAI') vide an application dated 08.02.2017. The petitioner claims protection under Section 3 (3) of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (for short 'the Act'). He submits that in the absence of Town Vending Committee ('TVC'), he cannot

apply for a licence for street vending. Accordingly, he seeks a direction to the respondents restraining them from taking any coercive action against the petitioner.

Mr. Sabharwal, who enters appearance on an advance copy, submits that the petitioner has erected a *pucca* structure on government land. He is carrying on business of selling food items without a licence from the Municipal Authorities. Further, the petitioner cannot be allowed to carry out vending activities on public land. It is also contended that the petitioner would not be covered under the definition of ‘street vendors’ and would not be entitled to protection under Section 3 (3) of the Act as he is not a regular street vendor and is vending only January, 2017 as claimed by the petitioner. Counsel further submits that even as per the MCD, no person can be allowed to carry out business of cooking food at the spot.

At this stage, counsel for the petitioner submits that the construction erected is a temporary construction and can be removed at any time. He submits that Section 3 (3) of the Act would be applicable to every person who decides to carry out vending activity.

We have heard the learned counsel for the parties.

The facts as emerge from the petition are that the petitioner started his business of selling food items in January, 2017 only. From the photographs placed on record, it is clear that the petitioner has erected a structure on public land. The petitioner has also been selling food items on public land by cooking food at the spot without any licence from the SDMC and has admittedly only made an application to FSSAI on 08.02.2017. The document placed on record clearly shows that the application to FSSAI is “*Waiting for Document Scrutinization by DO.*” Further, a show cause notice dated 10.03.2017 has been issued to the petitioner under Sections 357, 397 and 461 of the Delhi Municipal Corporation Act, 1957.

The petitioner is today claiming the protection of Section 3 (3) of the Act. We are of the opinion that the petitioner cannot be given protection as the petitioner is not an existing vendor, which is a prerequisite for protection under the provision. The petitioner started his vending activity in January, 2017 only by constructing a structure and is selling food items without the requisite licences. We may also add that if such petitions are allowed, it would open a Pandora's Box leading to jungle raj on the streets of Delhi with the potentiality of all the streets/pavements being encroached/ blocked. It would be virtually giving all persons licence to occupy any part of public land and start vending activities thereon.

Thus, we are of the opinion that the petition is misconceived and without any merit for the reason that first, the petitioner has constructed a structure on public land; second, is cooking and selling food items without permission/licence from either SDMC or FSSAI; and third, the petitioner is not entitled to protection under Section 3 (3) of the Act.

Leave, however, granted to the petitioner to approach the Town Vending Committee for appropriate relief if available in accordance with law.

Accordingly, the writ petition is dismissed.

CM.APPL 11592/2017 (Directions)

This is an application seeking interim protection against the respondent. In view of the order passed in the main writ petition, this application also stands dismissed.

G.S.SISTANI, J

VINOD GOEL, J

MARCH 23, 2017 //pst
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