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

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*Date of Judgment: 23rd May, 2017*

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**W.P. (C) No.11645/2016**

MAIN SADAR BAZAR TRADERS ASSOCIATION (REGD.)

..... Petitioner

Through Mr.Nikhil Singhvi, Adv. with  
Ms.Nikita Pandey, Adv.

versus

NORTH MUNICIPAL CORPORATION OF DELHI & ORS

..... Respondents

Through Mr.Mukesh Gupta, Standing Counsel  
with Mr.Sanjeev Garg, Adv. for  
NDMC, along with Mr.Sanjay Kumar,  
L.I., NDMC, in person.  
Mr.Devesh Singh, ASC for GNCTD.  
Insp. Ramesh Kumar, SHO and  
SI Prakash, PS Sadar Bazar, in person.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MS. JUSTICE PRATHIBA M. SINGH**

**G.S.SISTANI, J. (ORAL)**

1. The present petition has been instituted by the Main Sadar Bazar Traders Association, a body duly registered under the Societies Registration Act. Following prayers are sought by the petitioner:-

“A. Issue a writ of mandamus or any other appropriate order of direction to Respondent No.1 to 3 directing them to remove illegal squatters/hawkers from the Sadar Bazar area as has been declared to be a no-hawking/no-squatting zone by the Respondent No. 1.

B. Issue a writ of mandamus or any other appropriate order or direction to Respondent No.1-3 directing them to ensure that no illegal hawking or squatting takes place pursuant to removal of the illegal hawkers and squatters in the Sadar Bazar area.”

2. Learned counsel for the petitioner submits that a writ petition being W.P. (C) No.1699/1987 titled ***Gainda Ram and Ors. v. MCD Town Hall and Ors.***, was preferred before the Supreme Court in relation to illegal squatting and hawking. In the writ petition, a detailed order was passed on 01.05.1997 (reported as (1998) 1 SCC 188) wherein the Supreme Court passed detailed directions for determination of approved squatting zones and for removal of illegal squatters from the no-squatting zones. In that order, it was specifically stated that Zonal Heads of the MCD and the SHOs would be personally liable for ensuring that no such squatting takes place in the no-squatting zone. However, due to inaction on the part of the concerned authorities, M/s Beopar Sangh filed a Contempt Petition No.4985/2003 in W.P. (C) No.1699/1987 wherein the Supreme Court passed the orders dated 03.03.2006 and 05.05.2006 and while noting the difficulties faced by the general public by the presence of squatters/hawkers, directed MCD to declare specific areas of no squatting and no hawking zones. Delhi Police was directed to monitor the presence of hawkers/squatters in the areas declared, as no hawking zones once removed from those areas and it was further reiterated that the SHO would be personally liable if hawkers reoccupy the areas from which they were evicted.

3. Counsel further submits that over due course of time, some hawkers and squatters re-encroached upon the ones and many other hawkers and squatters also started placing themselves upon the roads and in front of the Sadar Bazar completely obstructing traffic and majorly affecting the business of the traders in Sadar Bazar.
4. When the matter came up for hearing on the last date of hearing, this Court had passed the following order:-

“Petitioner is a traders association of Sadar Bazar. The petitioner alleges that the area in question has been declared a ‘no-hawking’, ‘no-vending’ zone by the North Delhi Municipal Corporation. Despite the boards being put up, the respondents are soft on the persons who have illegally encroached upon the roads in and around the area in question. Learned counsel for the petitioner submits that although in the counter affidavit, it is not disputed that the area is a ‘no-hawking zone’, but the hawkers continue to occupy the area despite repeated action being taken for removal of encroachers. The photographs filed along with the rejoinder show a completely different picture.

Learned counsels appearing for the respondents wish to take instructions in the matter as to how they propose to enforce their own orders as admittedly, the respondents are not helpless. We would expect that a meeting is held by two senior officers of both the Departments, who will then file an affidavit in Court as to how they propose to comply with their own orders. We may caution the respondents that in case they are unable to enforce their own orders, the Court would be forced to take a serious view in the matter.

List on 23.05.2017.”

5. Today, we are informed by the learned counsels for the parties that a meeting was convened in the office of the Addl. Deputy Commissioner, S.P. Zone, NDMC on 17.05.2017 at 3.00 p.m. Copy of the Minutes of the meeting has been placed on record. The operative part of the minutes reads as under:-

“.....It was clarified by the office bearers of Traders Association that as of now, no illegal/unauthorized squatting/hawking is going on in the area as regular actions are taken by both the departments. However, they have shown their apprehension that the area may again be used by illegal hawkers/squatters. It was assured by both the agencies that the regular monitoring will be done by the departments. However, for effective execution and cooperation, it has been decided that the regular meeting shall be conducted between the departments and traders association on every 1<sup>st</sup> and 15<sup>th</sup> of the month at 3.00 pm in the office of Addl. Dy. Commissioner, S.P. Zone and grievances of the Traders Association, if any, shall be taken care of properly. It was however also clarified that in case any public holiday on the stipulated date then the meeting shall be held on the very next day.

Minutes be circulated to all the concerned.

This issues with prior approval of Dy. Commissioner, S.P. Zone.”

6. Learned counsel for the petitioner submits that the petitioner is satisfied with the meeting held on 17.05.2017. He further submits that the writ petition may be disposed of in view of the above and binding the respondents to the stand taken by them in the meeting held on 17.05.2017.

7. Mr.Gupta, learned Standing Counsel for NDMC also submits that the minutes of the meeting shall be followed and the area shall be kept free from all encroachments.
8. Accordingly, we dispose of this writ petition. However, we direct the NDMC to place dated photographs on record of the entire area, within six weeks from today, on account of intervening holidays. The photographs will be placed on record on an affidavit. The photographs will also be counter-signed by the SHO of the area, the President of the Association, the Beat Constable and the Licensing Inspector, NDMC. These photographs shall form part of the Court record.

**G. S. SISTANI, J.**

**PRATHIBA M. SINGH, J.**

**MAY 23, 2017/ka**