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

+ W.P.(C) 7308/2017

SURENDRA

..... Petitioner

Through: Mr.Gyan Prakash, Advocate

versus

NORTH DELHI MUNICIPAL CORPORATION AND ANR

..... Respondents

Through: Ms.Jyoti Taneja, Adv. for NDMC

Ms.Sweety Singh, Adv. for R-2.

SI Jagbir Singh, Delhi Police.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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22.09.2017

Present writ petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a direction to the respondents to allow him to peacefully continue hawking, vending, squatting or any other similar activities without removing or harassing him till the issuance of certificate of vending, as envisaged under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

The petitioner claims to be a street vendor and squatting opposite Dominos, near Gate No.2 Metro Station, Karol Bagh, New Delhi. He claims that he is being harassed by the officials of respondents while similarly situated persons are allowed to vend. In support of his submission that the petitioner is a regular street vendor, two challans pertaining to the years 2012, one challan pertaining to the year 2015 and another challan of the year 2011 have been placed on record.

Ms. Jyoti Taneja, who enters appearance for respondent No.1 submits that

the petitioner is not a regular street vendor. Only one challan of the year 2012 and another challan of the year 2015 have been placed on record. The challan at page 43 pertains to the Sanitation Department while the challan of the year 2011 does not pertain to the petitioner. Additionally, Ms. Taneja has handed over the photographs on record to show that the petitioner is vending partly on the pavement and partly on the road obstructing free flow of the traffic. Counsel submits that name of the petitioner is not found in any of the lists prepared by the MCD and the Chopra Committee. She has also handed over in Court communications i.e. letter dated 15.06.2017 addressed by the North Delhi Municipal Corporation to the DCP (Central), Daryaganj Police Station, letter dated 21.06.2017 addressed to the SHO, Police Station Karol Bagh, letter dated 08.08.2017 addressed to SHO, Police Station Karol Bagh and letter dated 03.08.2017 addressed to SHO Police Station Karol Bagh. While relying on the aforesaid communications Ms. Taneja submits that continuous action is being taken for removal of unauthorised encroachments from public/government land. She submits that the petitioner is an unauthorised vendor.

We have heard learned counsel for the parties and also perused the averments given in the writ petition as well as challans and communications handed over in the Court.

The petitioner apparently is not a regular squatter. No supporting documents have been filed except two challans, which have been noted hereinabove. Photographs show that the petitioner is occupying the footpath and part of the road. The respondent also assured the Court that uniform action is being taken and no person has been singled out. The respondent shall remain bound by the statement so made in Court on instructions.

At this stage, learned counsel for the petitioner submits that the case of the petitioner should be considered by the Town Vending Committee ('TVC'), as and when it is functional and in case petitioner is not found vending at the spot,

that should not be a ground to reject his case. Without admitting any of the averments made in the writ petition, counsels submit that the respondents would have no objection in case the TVC considers the case of the petitioner, subject to petitioner filing requisite documents and merely because the petitioner is not found vending at the site, that by itself would not be a ground alone to reject his case. Based on the stand taken by the learned counsels for the parties, we dispose of the writ petition with the following agreed directions:-

- (i) In case the petitioner makes an application along with supporting documents to the TVC, the TVC will consider the same in accordance with law.
- (ii) Merely because the petitioner is not found vending at his respective site when the survey is conducted, that by itself would not be a ground alone to reject his case.

This order is being passed without prejudice to the rights and contentions of the parties and without expressing any opinion on the merits of the matters.

The writ petition is disposed of accordingly.

C.M.30252/2017

Application stands dismissed in view of the order passed in the writ petition.

G.S.SISTANI, J

CHANDER SHEKHAR, J

SEPTEMBER 22, 2017

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