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

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*Date of Judgment: 19<sup>th</sup> September, 2017*

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**W.P. (C.) No.7423/2017**

GIRENDRA PANDIT

..... Petitioner

Through

Ms.Rani Chhabra, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ANR

..... Respondents

Through

Ms.Manorma Masih, Adv. for R-1

along with Mr.Vinod Kumar,  
Licensing Inspector, SDMC, in  
person.

Mr.Deeptakirti Verma, Adv. for R-2.

**CORAM:**

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

**HON'BLE MR. JUSTICE CHANDER SHEKHAR**

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

1. This is a petition under Article 226 of the Constitution of India filed by the petitioner seeking an appropriate writ, order or direction to declare the action of the respondents in removing the petitioner from the site, i.e. Mahavir Ahinsa Sthal, Lado Sarai, M.G. Road, Mehrauli, Delhi, as illegal and contrary to the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.
2. The petitioner claims to be a regular squatter. It is contended by Ms.Rani Chhabra, learned counsel for the petitioner that the petitioner

has been squatting since the year 1998. She complains that the officials of the respondents are harassing the petitioner and are not allowing him to earn his livelihood.

3. Learned counsel for respondent No.1/SDMC has placed a short affidavit on record disputing the averments made in the writ petition. She submits that the petitioner cannot be allowed to vend on the main road which would lead to obstruction of free flow of traffic and free movement of pedestrians. Counsel also highlights that the petitioner has placed receipts on record which do not pertain to him and thus, it amounts to misleading the Court. Counsel contends that the receipt at page 22 pertains to one Gaurav and not Girendra (the petitioner herein). Same argument is raised with regard to receipt at page 24; receipt at page 26 pertains to Upender Pandit; receipt at page 28 bears the name of one Gaurav Kumar, whereas the receipt at page 34 pertains to one Upender Pandey. Counsel submits that on this ground alone, the writ petition should be dismissed and heavy cost should be imposed upon the petitioner for filing false and fabricated documents.
4. Learned counsel for the petitioner, however, explains that the surname continues to remain the same and all these receipts belong to the same person, i.e. the petitioner herein.
5. We have heard the learned counsels for the parties. We may note that the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act came into force in the year 2014. Section 22 of the Act provides for the formation of a Town Vending Committee ("TVC"). As per Section 22(2)(d), the number of members representing the street vendors in the TVC shall not be less than 40% and they are to be

elected by the street vendors themselves in a manner which may be prescribed. Rules, more particular Rule 13 has, however, created an anomaly as per which representation of the street vendors in the TVC is on the basis of the nomination. Highlighting this issue, another Division Bench of this Court had granted stay of the Scheme and thus, till date the TVC is not functional. We may add further that this Court was informed by the Standing Counsel for Govt. of NCT of Delhi that these Rules are also being amended.

6. Taking note of such a situation, this Court had, with the consent of the stakeholders, directed that a representation be made to the Chief Minister to enable the Government, which is also in the process of amending the Rules, to consider the request of the street vendors. We may also note that taking into account that the matters were being adjourned from time to time and despite repeated requests, an expeditious decision was not being made, the Special Secretary, Urban Development, GNCTD was requested to appear in Court and he was requested that an early decision be taken in the matter.
7. We may also note that another Division Bench of this Court in the case of ***Bhola Ram Patel v. New Delhi Municipal Council and Anr.***, LPA No.136/2016, by order dated 27.09.2016 had granted liberty to the Statutory Bodies to remove such persons who are encroachers and block the free flow of the traffic and free movement of the pedestrians. Relevant para 9 of the said order is reproduced below:-

“9. In these circumstances, this Court is of the opinion that para 26(5) is to be understood as to mean that the NDMC, till final adjudication in the other writ proceedings vis-à-vis the constitution of the TVC (under validity of the concerned notification), should while

ensuring smooth passage in public spaces and pavements, ensure the following:

- (1) Those with a pre-existing right in the form of mention in any previous list, should not be disturbed as far as possible;
- (2) The principle of seniority emphasized in the main judgment should be maintained;
- (3) NDMC can, in enforcing smooth passage, remove those carrying on activities as street vendors etc. if their activity impedes or affects movement in the public passage or pavement etc. At the same time, if such individual or street vendor is removed, the NDMC is further directed to ensure that the names and particulars of all such individuals (with pre-existing rights in some form in other previous lists maintained for this purpose and not others) is maintained for use later when the issue is decided and the exercise is carried out by the regular TVC.”

8. As far as the present petition is concerned, we find that the petitioner has placed receipts on record with different names. The explanation rendered by the learned counsel for the petitioner, in our view, is not acceptable, thus it cannot be said that the petitioner is a regular street vendor. Additionally, it may be noted that the name of the petitioner does not find mentioned in any of the lists prepared by the MCD or the Chopra Committee.
9. Resultantly, we find no merit in the present writ petition. The same is accordingly dismissed.
10. However, we grant leave to the petitioner that as and when the TVC is functional, he may approach the TVC with all the supporting documents. The TVC would consider the case of the petitioner in

accordance with law. Merely because the petitioner is not found vending at the site when the survey is conducted, that by itself would not be a ground alone to reject his case. This direction is being passed without prejudice to the rights and contentions of both the parties and without expressing any opinion on the merits of the matter.

**C.M. No.30633/2017 (for stay)**

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

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

**CHANDER SHEKHAR, J.**

**SEPTEMBER 19, 2017/ka**