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

+ W.P.(C) 7699/2017

NAYA DELHI SARBOJANIN DURGA
PUJA SAMITI

..... Petitioner

Through Mr. Ramesh Singh, Mr. Sarvesh Kr. Mishra and
Mr. Parth, Advocates.

versus

PANDARA ROAD RESIDENTS WELFARE ASSOCIATION &
ORS Respondents

Through Mr. Rohit Sharma, Mr. Gauravjeet Narwan and
Mr. Mohit Kumar, Advocates for R1.
Mr. Vivek B. Saharya, Addl. Standing Counsel for
NDMC with Mr. B. B. Sharma (LWS) Officer.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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08.09.2017

CM Appln. No.31838/2017 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

WP(C) No.7699/2017 & CM Appln. No.31837/2017

3. It is the petitioner's case that they have been organizing Durga Puja and Kali Puja celebrations at a public park located at A Block, Pandara Road, New Delhi-110003. It is the petitioner's case that permissions to hold celebrations this season, are not being accorded, as the respondent No.1- (RWA) has not provided NOC.

4. Mr Saharya, the learned counsel appearing for the NDMC submitted that an representation has been made by the petitioner, which is pending consideration before the Chairman.

5. Respondent No.1 (which is the Residents Welfare Association) has also filed a letter before the chairman of NDMC opposing the petitioner's application. The learned counsel for the petitioner has drawn the attention of this Court to the bye-laws-The New Delhi Municipal Council (Public Parks, Gardens or Recreation Grounds) Bye-laws, 2012 framed in this regard. Bye-law 7(2) of the said Bye-laws, specifically provides that private social functions may be held in a public park after obtaining a written permission from the Chairperson, and on payment of such fee, if as may be fixed from time to time.

6. It is seen that the said bye-laws do not mandate an NOC to be obtained from the Resident Welfare Association of the area. However, learned counsel appearing for the NDMC has pointed out that it is the usual practice of NDMC to obtain an NOC from the Resident Welfare Association before permitting the use of local parks.

7. Mr Saharya has also drawn the attention of this Court to various notings in the file. The said notings indicate that NDMC had sought a legal opinion in this regard from the Law Department which had opined that an NOC from a Resident Welfare Association is not mandatory.

8. However, it also appears that NDMC has taken a decision, that in case functions are held in local parks by non-residents of that area, a NOC *may* be obtained. Thus, an NOC from the RWA is not mandatory, however, it appears that NDMC does seek, as a matter of practice, a NOC from the

concerned RWA while considering an application for use of a public park by non-residents of the concerned area.

9. The learned counsel appearing for the respondents earnestly contended that a NOC from a RWA is mandatory. This Court is not persuaded to accept the said contention, as it finds no basis either in the notings of the file produced by NDMC or in the bye-laws in this regard

10. The petitioner is directed to appear before the Chairperson on 12.09.2017 at 12:00 pm. The representatives of respondent No.1 may also be present on that occasion. The Chairman, NDMC shall consider the petitioner's representation and take such decision as he considers fit and proper in the circumstances of the case.

11. Before concluding, this Court also observes that notwithstanding that a NOC from respondent no.1 is not mandatory, it would be apposite for the petitioner and the respondent no.1 to make an attempt to resolve issues amicably. In case there are genuine concerns of the residents of the area, the petitioner must allay those apprehensions.

12. No further orders are required to be passed in this petition and the same is disposed of. The pending application also stand disposed of.

13. Copy of this order be given *dasti* under the signatures of the Court Master.

VIBHU BAKHRU, J

SEPTEMBER 08, 2017
dr