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

+ W.P.(C) 7884/2017

SHIV PRASAD

..... Petitioner

Through Mr.Dharmender Sharma, Adv. with
Ms.Monika, Adv.

versus

NEW DELHI MUNICIPAL COUNCIL (NDMC) & ANR

..... Respondents

Through Mr.Sri Harsha Peechara, Standing
Counsel, NDMC with Mr.Mananjay Kr.
Mishra & Mr.Chetan Sharma, Adv. for
NDMC.
Mr.Puneet Singh, Adv. with Ms.Surabhi
Arora, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **06.09.2017**

C.M. Nos.32567/2017 & 32568/2017 (exemption)

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

W.P. (C) No.7884/2017

This is a petition under Article 226 of the Constitution of India filed by the petitioner seeking a writ, order or direction in the nature of *Mandamus* directing respondent No.1/NDMC not to remove his stall at Manas Marg, Chanakya Puri, New Delhi. Direction is also sought to the respondents not to interfere in his peaceful working.

Learned counsel for the petitioner submits that the petitioner has been vending continuously for the past many years. Challans for the years 2004 to

2007 and 2009 to 2017 have been placed on record. Counsel submits that at present, the petitioner has been removed by the officials of the NDMC. At this stage, he seeks a direction to the effect that as and when the Town Vending Committee (“TVC”) is constituted, the case of the petitioner should be considered by the TVC expeditiously, for the reason that he is a regular squatter. He also seeks a direction that merely because the petitioner is not found vending at the spot, that should not be a ground to reject his case.

Notice. Learned counsels for the respondents accept notice. Without admitting any of the averments made in the writ petition, Mr. Peechara, learned Standing counsel for NDMC submits that in case the petitioner approaches the TVC as and when it becomes functional, the TVC shall consider the case of the petitioner based on supporting documents and merely because he is not found vending at the spot, the same would not be a ground alone to reject his case.

Accordingly, with the consent of the parties, we dispose of this writ petition with the following agreed directions:-

- (i) The petitioner would approach the TVC, as and when it is constituted and becomes functional, with all the supporting documents;
- (ii) The TVC will consider the case of the petitioner in accordance with law and expeditiously, after taking into consideration all the material placed on record;
- (iii) 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 order 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.

The writ petition is disposed of accordingly.

Dasti.

C.M. No.32569/2017 (for stay)

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

G.S.SISTANI, J.

CHANDER SHEKHAR, J.

SEPTEMBER 06, 2017/ka /

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