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

+ W.P.(C) 10667/2017

ANIS AHMED

..... Petitioner

Through: Mr.Dharmender Sharma and Ms.Monika
Singh, advts.

versus

NEW DELHI MUNICIPAL COUNCIL (NDMC) AND ORS

..... Respondents

Through: Mr.Sri Harsha Peechara, Standing
Counsel for NDMC with Mr.Chetan
Sharma, Mr.Mananjay Mishra &
Ms.Vidhi Jain, Advts.
Mr.Ashish Mohan and Mr.Akshit Mago,
Advts. for Sarojini Nagar Market
Association.
Mr.Rajat Malhotra, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

O R D E R

% **01.12.2017**

C.M.Nos.43646/2017 & 43647/2017 (exemption)

Exemptions are allowed subject to just all exceptions.

Both the applications stand disposed of.

W.P.(C) 10667/2017 & C.M.43648/2017 (stay)

By the present petition filed under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondents not to interfere in his peaceful possession and his vending activities which were being carried out at the site i.e. side of shop no.36, Sarojini Nagar Market till he was removed in the month of October, 2016.

Mr.Peechara, learned counsel for NDMC enters appearance on an advance notice and submits that the present petition is liable to be dismissed with exemplary cost as the petitioner has wilfully withheld and suppressed material facts from this Court. Mr.Peechara contends that the writ petition does

not disclose the fact that the petitioner had filed an earlier petition i.e. W.P.(C) 4907/2017, which was disposed of along with a batch of writ petitions. The contention of the petitioner which is sought to be urged today was also urged in the aforesaid earlier writ petition, which was heard and rejected by the Court. This, Mr.Peechara, submits is an important fact which should have been disclosed in this writ petition. Mr.Sharma has rendered an explanation for not disclosing this fact in the writ petition, which is not convincing. Mr.Sharma submits, at this stage, that the petitioner only claims that he should be permitted to approach the TVC as and when it is functional and the case of the petitioner should be considered in accordance with law and expeditiously, as his name finds mentioned in the list of 628 street vendors prepared by the NDMC. Mr.Sharma further submits that he would furnish all the supporting documents, and in case the NDMC identifies another site like Laxmi Bai Nagar and in case there is availability of space, the petitioner should be accommodated. Mr.Peechara submits should the petitioner approach the TVC, the case of the petitioner would be considered based on the documents filed and in case additional space is available or area identified, which would accommodate all persons in the list of 628 street vendors.

Accordingly, the present petition is disposed of with the following agreed directions: -

- (i) The petitioner would approach the TVC as and when it is constituted 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.

In case NDMC identifies additional place for street vendors, the case of the petitioner would be considered.

We make it clear that we have not expressed any opinion on the merits of the matter and this order is being passed without prejudice to the rights and contentions of both the parties.

The writ petition along with the pending application is disposed of in above terms.

We extend a word of caution to Mr.Sharma that prior petition, if filed, should have been disclosed, in future, failing which, it would amount to make a false declaration that no previous writ petition has been filed as stated in para 15 of the present petition.

G.S.SISTANI, J

V. KAMESWAR RAO, J

DECEMBER 01, 2017/rb/

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