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

% *Date of Judgment: 19th March, 2018*

+ W.P.(C) 2590/2018

SHIV GIRI Petitioner

Through: Mr. Vijay Babbar, Advocate.

versus

NORTH DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Ms. Puja Kalra, Advocate for North
MCD.

Mr. Devvrat and Mr. Rizwan, Advocates
for respondent No. 2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

1. This is a petition under Article 226 of the Constitution of India and under the Street Vendors Act, 2014 filed by the petitioner. The petitioner claims to be a regular street vendor and is in the business of selling readymade garments and vending at Site 13/8, WEA, Padam Singh Road, Near J&K Emporium, Karol Bagh, New Delhi. The petitioner seeks a direction to the respondents not to remove him or dispossess him from the existing site till the completion of the survey or provide an alternate site to him.
2. Learned counsel for the respondents submits that the present writ petition is not maintainable as the petitioner has approached this Court earlier by filing a writ petition No. 4844/2017 titled as *Shiv Giri Vs. North Delhi Municipal Corporation & Anr.* seeking an identical relief, which was decided on 29.08.2017. The operative

part of the said order reads as under :

“4. We have heard learned counsel for the parties and analysed the documents placed on record. Upon analysis of challans for the years 1991, 1993, 1995, 1998 and 2003 are weekly bazaar challans and would show that the petitioner is not a regular squatter. The challan dated 20.09.2007 pertains to applying for licence under the erstwhile scheme of MCD and again cannot show that the petitioner was squatting at the site in question. The remaining challans have been issued by the Tis Hazari Courts, however, the challans of the year 1981, 1997, 2010, 2011 and 2012 show nothing relating to the site” where the petitioner claims to be squatting. There are no challans to show that he had been squatting when the Act came in force or anytime thereafter.

5. Additionally, the name of the petitioner does not figure in any of the lists prepared by the Municipal Corporation or the Chopra Committee. This gains significance in view of the of the judgments of a coordinate bench of this Court in **Bhola Ram Patel v. New Delhi Municipal Council and Anr., LPA 136/2016** dated 18.05.2016 [2016 (157) DRJ 584] and subsequent clarification dated 27.09.2016 [2016 (159) DRJ 494], whereby this Court had directed that the municipal corporation shall ensure smooth passage in public places and pavements and had interpreted the term ‘street vendors’ as those having a pre-existing right as tehbazari licence or name in any list. In the present case, the petitioner neither holds a tehbazari licence nor has his name in any list prepared by the respondent no.1 and thus, cannot claim the protection under Section 3 (3) of the Act.

6. Even further, learned counsel for the respondent has handed over in Court a copy of the order dated 03.05.2017 passed by a Division Bench of this Court in **Paardarshita Public Welfare Foundation (NGO)**

v. Commissioner South Delhi Municipal Corporation & Ors., W.P. (C) 5023/2015 to show that this Court had directed measures to be taken to remove the encroachments on pavement to ensure hindrance free movements of the pedestrians. 7. 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 Town Vending Committee, as W.P.(C).4844/2017 Page 4 of 4 and when functional. The TVC will consider the same in accordance with law

(ii) 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.”

3. Heard.
4. We find that the second petition filed on almost identical grounds is not maintainable. Additionally, we may note that Rules of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules 2017 have been notified on 10.01.2018. We are also informed that the statutory bodies are taking necessary steps to conduct the election and for formation of the TVCs.
5. The writ petition is dismissed.

G. S. SISTANI, J

SANGITA DHINGRA SEHGAL, J

MARCH 19, 2018 / gr