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

% *Date of Judgment: 3rd July, 2018*

+ W.P.(C) 6672/2018

DELHI PRADESH REHRI PATRI KHOMCHA HAWKERS UNION
..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

+ W.P.(C) 6673/2018

JANODAYA EKTA SAMITI (REGD) Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Present: Mr.Ramesh Kumar Mishra, Advocate for the petitioners.
Ms.Sangeeta Chandra, Advocate for South Delhi Municipal Corporation with Mr.Sandeep Kumar, Addl.D.C. (Central Licensing & Enforcement Cell), SDMC.
Ms.Jyoti Taneja, Advocate for North Delhi Municipal Corporation with Mr.M.A.Rehman, Addl.D.C., North DMC.
Mr.G.D.Mishra, Standing counsel for East Delhi Municipal Corporation and Mr.Tushar Sannu, Advocate with Mr.Victor James, Addl.D.C., East DMC.
Mr.Tarunvir Singh Khehar, Standing Counsel for New Delhi Municipal Council with Mr.Vaibhav Agnihotri, Mr.Adhiraj Choudhary and Mr.Abhimanyu Gupta, Advocates
Mr.Santosh Kumar Tripathi, Addl. Standing counsel for GNCTD.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. Two organizations, namely, Delhi Pradesh Rehri Patri Khomcha Hawkers Union and Janodaya Ekta Samiti (Regd.) & another have filed W.P.(C) Nos.6672/2018 & 6673/2018 respectively. Mr.Ramesh Kumar Mishra, counsel for the petitioners submits that the prayers made in both the writ petitions are identical. Accordingly, for the sake of convenience, the facts in W.P.(C) 6672/2018 are being noticed and wherever the word ‘petitioners’ is being used, it would relate to W.P.(C) 6672/2018 wherein the following prayers have been made:

“(a) Issue appropriate writ/order or direction directing the South Delhi Municipal Corporation and East Delhi Municipal Corporation to display the zone wise voter list prepared by the Corporations as on 19.06.2018 on the basis of documents submitted by the street vendors who have applied under the Scheme of 2007.

(b) Issue appropriate writ/order or direction directing the South Delhi Municipal Corporation, North Delhi Municipal Corporation and East Delhi Municipal Corporation to display the zone wise list of all those street vendors who have applied in 2007 and who are eligible for voting under Rule 13 of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2017.

(c) Direct the South Delhi Municipal Corporation, North Delhi Municipal Corporation and East Delhi Municipal Corporation to give public notice announcing 15 more days time for submission of documents to such street vendors who could not submit their documents due to lack of public notice and at the same time allow such street vendors who have submitted their documents to raise objections, if any, against the list already prepared.

(d) Direct the South Delhi Municipal Corporation, North Delhi Municipal Corporation and East Delhi Municipal

Corporation to verify the documents of such street vendors who have lost their receipts issued in 2007 on the basis of list available with the MCD.

(e) Direct the South Delhi Municipal Corporation, North Delhi Municipal Corporation and East Delhi Municipal Corporation to take the documents of such street vendors who are dependent of those who applied in 2007 and work at the place of the applicant.”

2. Counsel for the petitioners submits that the entire procedure adopted by the Corporations for conducting elections fixed on 15.07.2018 for the formation of the Town Vending Committees is flawed as the Corporations have failed to upload and display the complete voters list on the official websites and notice boards of the Corporations. Counsel further submits that the Corporations are proposing to carry out elections without following Rule 13 of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2017. Counsel for the petitioners further contends that as per Rule 13, the first Town Vending Committee is to be formed after conducting elections from amongst the street vendors who had applied in the 2007 scheme in the MCD/NDMC plus street vendors whose names find mentioned in the list prepared by the Chopra Committee and Thareja Committee and also any other vendor who has been issued a licence or any other form of permission by the local authorities. Counsel also contends that the Corporations had given a public notice calling upon the street vendors to produce documents for verification and for which sufficient time was not granted forcing the petitioners in W.P.(C). 6672/2018 to approach this Court and this Court had directed the Corporations to give reasonable notice of 30 days to the street vendors to submit

documents for verification. Counsel for the petitioners submits that after the verification as per his information barely 10% persons have been found eligible and, thus further time should be granted to the street vendors to file objections.

3. Another grievance of the petitioners is that the Corporations are not uploading the notices and lists on the website, resulting in great inconvenience to the street vendors as the lists are displayed on the notice boards which are removed leaving the street vendors completely helpless and at the mercy of the touts.
4. Counsel for the petitioners thus, prays that the Corporations be directed to forthwith display and upload the list of voters on the websites and further reasonable opportunity be granted to the street vendors to file objections.
5. Learned counsels appearing for the Corporations have opposed these petitions, firstly on the ground of delays and latches. It is submitted that the petitioners were well aware of the procedure which is being adopted by the Corporations. The petitioners had filed an earlier writ petition praying that sufficient time be granted to the street vendors to produce documents for verification. Counsels contend that in case of any grievance, the petitioners should have pointed out the same in the writ petition so filed or soon after the first public notice which was issued way back in the month of April, 2018. Counsel further submits that the sole attempt of the petitioners is to derail the elections process. Counsels for the respondents also submit that the Corporations have not flawed Rule 13. It is contended that the procedure for verification is not unknown prior to holding elections. It is submitted that the

object of verification of documents of the street vendors is to weed out dead voters and with a view to avoid bogus voting. It is further pointed out that the combined list of Chopra Committee and street vendors who had applied in the 2007 scheme was prior to the division of the Corporation into three zones in the year 2012. Learned counsels submit that to enable the Corporations to prepare the lists zone-wise, the verification was necessary.

6. We have heard the learned counsels for the parties.
7. Rule 13 of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2017 reads as under:

“13. Election to the elected member of Town Vending Committee-

(1) The first Town Vending Committee will be formed after conducting elections from amongst Street vendors who had applied in 2007 scheme in MCD/NDMC plus Street Vendors whose names find mentioned in the list prepared by Chopra Committee and Thareja Committee. The electors will also include any other vendor who has been issued a license or any other form of permission by the local authorities whether as a statutory vendor, mobile vendor or under any other category before commencement of the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

Provided that the initial Town Vending Committee will discharge its function as for the purpose of survey and the issue of certificate of vending and it shall ensure that once the survey is complete, the elections are conducted within six months.

Provided further the Commissioner/CEO/Chairperson of the local authorities may conduct subsequent elections after revision of its electoral rolls from time to time.”

8. Reading of the Rule 13 would show that for the formation of the first

Town Vending Committee, the election is to be conducted from amongst the street vendors who had (i) applied in 2007 scheme in MCD/NDMC; (ii) street vendors whose names find mentioned in the list prepared by Chopra Committee and Thareja Committee; and (iii) other vendor who have been issued a license or any other form of permission by the local authorities.

9. After some hearing in the matters, learned counsels appearing for the Corporations submits, on instructions, that as far as prayers (a) and (b) are concerned, the respective Corporations would have no objection. They submit that the list prepared by the Chopra Committee and the common list of applications prepared pursuant to the 2007 Scheme and also the eligible street vendors whatever is available would be uploaded on the website within two days, if not already done. As far as Prayers (c), (d) and (e) are concerned, learned counsels for the Corporations have drawn the attention of the Court to an order passed by the Supreme Court in petition for Special Leave to Appeal (C) No.7617/2016 dated 07.05.2018 in the case of **Mazhar Ali & Ors. Vs. South Delhi Municipal Corporation & Ors.** The aforesaid order reads as under:

“Upon hearing the counsel the Court made the following

O R D E R

The Commissioner of South Delhi Municipal Corporation, i.e. Mr.Puneet Kumar Goel, is present in Court pursuant to our order dated 3rd May, 2018. He states that the electoral roll will be finalized by the end of the month and objections have been invited already.

We made it clear that the date of 31st May, 2018 will not be extended under any circumstances for dealing with the objections.

He further states that the election will take place within a

period of three months thereafter, i.e., sometime in the month of August, 2018.

List the matter in the first week of September, 2018.

The Commissioner of South Delhi Municipal Corporation need not remain present on the next date of hearing.”

10. Learned counsels for respondents submit that in case prayers (c), (d) and (e) are considered, it would amount to violation of the order passed by the Supreme Court of India dated 07.05.2018 wherein the Supreme Court has made it clear that no extension is to be granted under any circumstances for dealing with the objections.
11. Counsel for the petitioners insists that this Court should allow the street vendors to file objections prior to conducting of elections. Counsel for the petitioners submits that objections could not have been decided by 31.05.2018 as objections were not invited by the Corporations. Counsel for the petitioners further submits that despite the orders of the Court, no public notice was given in the newspapers by the North DMC and EDMC. He submits that time was extended and the notice of extension of time was displayed only on their notice boards, websites and not inserted in the newspapers. However, counsels for the EDMC and North DMC submit that notices were displayed on their website and on the notice boards and thus no prejudice was caused to the street vendors.
12. Based on the submissions made by the respective counsels for the Corporations, on instructions of their respective officers present in the Court, Prayers (a) and (b) made in the writ petitions are allowed.
13. However, counsels for the Corporations have opposed prayers (c), (d) and (e) on the ground that in case objections are invited at this stage,

the elections will have to be postponed and even otherwise, such a direction would be in violation of the orders passed by the Supreme Court.

14. We find force to the submissions made by the counsels for the Corporations. The petitioners were well-aware of the procedure being adopted by the Corporations for conducting the elections which is evident upon the fact that an earlier writ petition was filed by them seeking extension of time for filing of documents for verifications. In case the petitioners were aggrieved by the procedure which was being followed by the Corporations, they should have approached this Court at the earliest point of time. We are also of the view that in case the objections are invited, at this stage it would not only result in elections being postponed but would also be in violation of the orders passed by the Supreme Court of India. Accordingly, the prayers (c), (d) and (e) are declined.

15. With these directions, the writ petitions stand disposed of.

CM.APPL 25395/2018 in W.P.(C) 6672/2018
CM.APPL 25396/2018 in W.P.(C) 6673/2018

16. The applications stand disposed of in view of the orders passed in the writ petitions.

17. *Dasti.*

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JULY 03, 2018/rb/pst