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

+ W.P.(C) 6318/2019 and CM Nos. 26947/2019 & 26948/2019

KAROL BAGH RETAILERS ASSOCIATION

THROUGH ITS PRESIDENT

..... Petitioner

Through: Mr Rajiv Dewan, Mr Angad Singh,
Ms Hema Tuli, Advocates alongwith
Rajesh Mehra, President of
Association in person.

versus

UNIFIED TRAFFIC AND TRANSPORTATION

INFRASTRUCTURE AND ORS.

..... Respondents

Through: Ms Mini Pushkarna, Standing
Counsel for North DMC with Ms
Swagata Bhuyan, Ms Shiva Pandey,
Ms Rikita, Advocates for respondent
no.2 with Mr Hemant Kumar,
Licensing Inspector, MCD, Karol
Bagh Zone.

Mr Pawan Mathur, Advocate for
DDA.

Mr Rishikesh Kumar, ASC with Mr
Premsagar Pal, Advocates for R-3 to
5.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **29.05.2019**

1. The petitioner claims to be an association of shopkeepers of Ajmal Khan Road, Karol Bagh, New Delhi. The petitioner has filed the present petition, *inter alia*, praying that the members of the petitioner association be allowed to park their vehicles on Ajmal Khan Road. The petitioner also prays that the respondents be restrained from permanently converting Ajmal

Khan Road into a No Parking Zone as according to the petitioner, the same is in violation of the of the Master Plan of Delhi – 2021 (MPD–2021).

2. The petitioner is, essentially, aggrieved by the Karol Bagh Pedestrianization Project, which is currently being implemented by the respondents.

3. The petitioner claims that over 400 shopkeepers at Ajmal Khan Road are members of the petitioner and the present petition is filed on their behalf. It is contended on behalf of the petitioner that its members have paid onetime parking charges and, therefore, they cannot be prevented from parking their vehicles on Ajmal Khan Road. The petitioner claims that this is in terms of a public notice dated 22.06.2007.

4. It is further contended on behalf of the petitioner that Ajmal Khan Road is described as a motorable road in MPD–2021 and, therefore, its conversion into a pedestrian zone is contrary to the terms of MPD–2021.

5. The contention that the members of the petitioner have a right to park their vehicles on Ajmal Khan Road, is unsustainable. Even if it is accepted that MPD–2021 reflects the said road as a motorable road, the members of the petitioner have no right to park their vehicles on the said site.

6. The reliance placed by the petitioner on the notification dated 22.06.2007, is also misplaced. It appears that by the said Notification (S.O. No.1542(E) dated 22.06.2007), the regulation relating to onetime charges for development of parking as fixed under the DDA (Fixation of Charges for Mixed use and Commercial use of Premises) Regulation, 2006 (hereafter

‘the said Regulations’), was amended.

7. Regulation 7 of the said Regulations, as amended by the notification dated 22.06.2007, is set out below:-

“7. One Time Charges for Development of Parking

7.1 The owner/allottee/resident/user of the plot/dwelling unit under mixed land use shall also be liable to pay one time charges for development of parking and such rate for one ECS per 50 sqm. of plot area shall be as under for the year 2006-07

(a) For MCD areas:

A & B category of colonies	Rs. 2,10,500/-
C & D category of colonies	Rs. 1,49,750/-
E, F & G category of colonies	Rs. 66,500/-

(b) For NDMC areas:

Rs. 2,10,500 for [one ECS per 50 sqm. of built up area for the area under use other than residential.]

[7.2 The onetime charges for development of parking shall be paid by the owners/allottees/residents/users either in lump sum or in four equal quarterly installments. First such instalment shall be paid within 30 days of the notification of these rules and each subsequent installment has to be paid within a period of three months thereafter. In case of any delay in making the payment, it will attract interest @8% per annum.]

7.3 No development charges for parking shall be payable by small shop owners of area upto 20 Sqm. dealing with the items/activities as defined in para 15.6.3 of the Master Plan for Delhi 2021 in respect of any category of colonies.

7.4 Development charges shall also not be payable by owner/allottee/resident/user of the plot/dwelling units falling

under notified pedestrian shopping streets.]

8. Although the members of the petitioner have been called upon to pay a onetime charge for the development of parking, the same cannot be misconstrued to mean that the members of the petitioner have been granted parking rights on Ajmal Khan Road. The onetime charge collected from the members of the petitioner and other persons are required to be utilised for specified purposes as indicated in Regulation 8 of the Regulations, which reads as under:-

“8. Utilization

8.1 The amount so collected shall be deposited in an ESCROW ACCOUNT by the local body concerned for incurring expenditure for developing parking sites, augmentation of amenities / infrastructure and environmental improvement programmes, for the areas in which the mixed use/commercial use streets fall, after consulting all stakeholders including traders in the area.

8.2 A separate account of the income and expenditure of the ESCROW ACCOUNT shall be maintained by the local authority and a quarterly statement of the same shall be rendered by the local authority to the Government.”

9. In view of the above, this Court is unable to accept that the members of the petitioner have any right to park their vehicles on Ajmal Khan Road, as claimed by them. The petitioner has also relied upon a print out, which is stated to have been downloaded from the website of respondent no.1 (Unified Traffic and Transportation Infrastructure), relating to the proposal of Karol Bagh Pedestrianization Project.

10. It appears from the said print out that a proposal for the management,

streetscaping and urban placemaking was placed before respondent no.1 under the Chairmanship of Hon'ble Lt. Governor of Delhi. It appears that in this regard, the following decision was taken:-

“The proposal was appreciated and approved for implementation with incorporation of the following observations/ conditions:

i. Trial run of the proposed one-way loop circulation system is to be conducted by Traffic Police and subsequently implemented. **Action: Traffic Police**

ii. Public Art to be provided in the area must be functional as well as aesthetic and must evoke positive emotions amongst spectators. **Action: Municipal Corporation of Delhi.**

iii. Table-top crossing and synchronized Signalization of Pusa road-Ajmal Khan Road junction is to be implemented at the earliest. **Action: MCD, Traffic Police** Governing body dated 25.06.2014 under the Chairmanship of Hon'ble LG, Delhi approved the Stage-III final drawings of Underpass at B.J. Marg & Parallel flyover along the existing flyover at ORR-RTR junction.

The Proposal for “KAROL BAGH PEDESTRIANIZATION PROJECT - Parking and Circulation system around the proposed Ajmal Khan pedestrian street" was approved by 30TH Governing Body dated 15.04.2011 under the Chairmanship of Hon'ble LG, Delhi with the following directions:

1. MCD will immediately prepare the Stack Parking plans for the above proposed three sites and also submit the feedback report of the present stack parking sites in Sheila Cinema, and Karol Bagh Area before approval is given by the Governing Body.
2. Delhi Traffic Police will immediately implement the proposed one-way circulation system as decided earlier by the Governing Body on 16.04.2010.

3. Planning and implementation of the approved project to monitored by the UTTIPEC Core Team and discussed with all the Stakeholders and provide feedback to the Governing Body.”

11. It is apparent from the aforesaid decision that the decision is also made to prepare stack parking plans for three sites. It also appears that Delhi Police was required to implement one-way circulation system, as decided earlier by the governing body of respondent no.1.

12. Ms Pushkarna, learned counsel appearing for respondent no.2 (North Municipal Corporation) submits that the present decision to make Ajmal Khan Road as a pedestrian zone is being implemented on a test basis. The respondents are also in the process of implementing the decision to make an overall plan for the entire Karol Bagh area.

13. In view of the above, this Court is not persuaded to accept that any interference is called for at this stage. Clearly, the respondents are required to develop an overall plan for decongestion of the Karol Bagh Area. The decision to make Ajmal Khan Road as a pedestrian zone is one of the steps towards implementing the same.

14. This Court is refraining from examining the merits of the said plan, as it is not apposite to do so in these present proceedings under Article 226 of the Constitution of India.

15. Since the petitioner has no vested rights to park their vehicles on the Ajmal Khan Road, the petitioner’s prayer that the respondents be restrained from treating Ajmal Khan Road as a pedestrian zone cannot be granted.

16. It was also submitted on behalf of the learned counsel appearing for the petitioner that the petitioner ought to be involved in the decision-making process. The aforesaid contention appears to be merited. The petitioner is entitled to make a representation to the Hon'ble Lt. Governor, as this Court is informed that the said project is being implemented under his leadership. Needless to state that if such a representation is made, the Lt. Governor shall give it the consideration it deserves.

17. This Court is also of the view that although Ajmal Khan Road has been made a pedestrian zone, the respondents must make proper arrangement to ensure that the access of ambulance and fire service vehicles is not restricted. The petitioner is also at liberty to make a representation to respondent no.3 (Delhi Traffic Police) for making an arrangement for transportation of their goods to stock their shops. It is suggested that the Delhi Traffic Police considers permitting such delivery vehicles for a brief period during odd hours.

18. The petition is disposed of in the aforesaid terms. The pending applications are also disposed of.

VIBHU BAKHRU, J

MAY 29, 2019
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