

\$~22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11925/2018**

SH. NAVED HAQUE Petitioner

Through: Mr.Dhruv Madan, Adv. with
Mr.Ansh Kukreja, Adv.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS.

..... Respondent

Through: Mr.Arun Birbal, Adv. for R1-DDA
Mr.Tushar Sannu, Adv. for SDMC
Ms.Saumya Tandon, Adv. for R3

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

%

27.03.2019

The present petition has been filed by the petitioner with the following prayers:

“In the facts and circumstances mentioned above and in the interest of justice, it is humble prayer of the Petitioner above named that this Hon’ble Court may be graciously pleased to:

A. Allow the present Writ Petition;

B. Issue Writ, order or direction in the nature of Mandamus directing the Respondents not to disturb or remove the Petitioner's Chef Cart namely Wok on Wheels' parked near District Park, District Centre, Jasola, New Delhi;

C. Issue directions in the nature of mandamus directing the Respondents from not taking any arbitrary or coercive action against the Petitioner or if they want to take any action the

same may not be done arbitrarily without following the procedure and issuing proper show cause notice to the Petitioner.

Pass any other further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case”.

Counter affidavit has been filed by the SDMC, wherein, in para 3 to 6, they have stated as under:

“3. At the outset, it is most respectfully submitted that the Chef Cart of the Petitioner situated at District Park, District Centre, Jasola, New Delhi was inspected by the undersigned on 06.12.2018 and it was found the Petitioner's Chef Cart was running at the said site with valid municipal health trade licence and there was no encroachment on public land done by the Petitioner's Chef Cart.

4. That the Respondent No. 2/SDMC had issued a Health Trade Licence dated 24.04.2018 bearing Licence No. HTLCMCT0127129 to the Petitioner for operation of the Chef Cart. That as present, the Petitioner's Chef Cart is holding the said Health Trade Licence which is valid till 31.03.2019. A Copy of the Health Trade Licence valid till 31.03.2019 granted to the Petitioner by the Respondent No. 2/SDMC is herewith annexed and marked as Annexure R-1.

5. *That the Respondent No. 2/SDMC had earlier carried out a drive for removing unauthorized Chef Carts in the area near the Petitioner's Chef Cart and consequently, the Respondent No. 2/SDMC had successfully removed about three (3) unauthorized Chef Carts, however, the Petitioner's Chef Cart was not one of them. It is pertinent to mention that none of the officials of the respondent No. 2/SDMC have extended any sort of threat to the Petitioner with regard to removal of the Petitioner's Chef Cart.*

6. *That the Respondent No. 2/SDMC is not a necessary party in the present matter in view of the fact that there no threat to the Petitioner's Chef Cart from the Respondent No. 2/SDMC so long as the Health Trade Licence issued to the Petitioner's Chef Cart is valid and no encroachment on public land is done by the Petitioner".*

Mr.Arun Birbal, learned counsel appearing for the respondent No. 1-DDA states that the DDA has no intention to remove the Chef Cart which the petitioner is operating as he has a Health Trade Licence.

In view of the stand of the respondents, DDA / SDMC the present petition is disposed of, as being infructuous.

V. KAMESWAR RAO, J

MARCH 27, 2019/akb