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

+ W.P.(C) 13333/2018 & C.M. No.51886/2018

POTI RAM AND ORS.

..... Petitioners

Through Mr. Pradeep Kumar Kaushik, Mr.
Sunil Kumar and Ms. Priyanka Pandey,
Advocates.

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS.

..... Respondents

Through Mr. Sushil Kumar, Advocate for R-
1/Nr.D.M.C.
SI Nishant, PS-Kamla Market.

AND

W.P.(C) 13398/2018

ANIL KUMAR AND ORS.

..... Petitioner

Through Mr. Jamal Akhtar and Mr. Parvez,
Advocates.

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS.

..... Respondent

Through Mr. Tushar Sannu and Mr. Ayush
Dixit, Advocates for R-1/Nr.D.M.C.

Ms. Ananya Singh, Advocate for R-2 and R-3 with
SI Nishant, PS-Kamla Market.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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17.10.2019

1. W.P. (C) 13333/2018 has been filed by 16 petitioners and W.P. (C) 13398/2018 has been filed by 2 petitioners praying *inter alia* that the respondent No.1/North Delhi Municipal Corporation (Nr.D.M.C.), respondent No.2/Delhi Police and respondent No.3/GNCTD be restrained from removing them from their present hawking site at Tagore Road, New Delhi till an alternative permanent site is allotted to them. As the relief prayed for is common, for the sake of convenience, the facts of W.P. (C) 13333/2018 are being referred to hereinafter.

2. Learned counsel for the petitioners states that the petitioners have been granted hawking licences for sale of non-food articles on a *rehri* at Tagore Road, in the year 2004. However, since November, 2018, officers of the respondents have been obstructing the petitioners from hawking at their sites at Tagore Road without any justification, due to which they have had to file the present petition.

3. On 13.12.2018, learned counsel for the petitioners had stated that the petitioners have been removed from Tagore Road, whereas other unauthorised hawkers have continued to hawk and vend on the said road. In response, learned counsel for the respondent No.1/Nr.D.M.C. had stated that the petitioners have been removed from Tagore Road as they were blocking free flow of traffic movement and alternative sites at Mata Sundri Road and Jahangir Road have been offered to them, but they had refused to go to the said sites. In view of the said statement, respondent No.1/Nr.D.M.C. was directed to file an affidavit clarifying as to whether any other unauthorized hawkers had been permitted to hawk and vend on Tagore Road.

4. Pursuant thereto, a Status Report dated 18.1.2019 has been filed by the respondent No.1/Nr.D.M.C. wherein, it has been averred that as per the site inspection carried out by the Department before filing the affidavit, no unauthorized hawker was vending or allowed to vend at Tagore Road and the said site was free of encroachment. Photographs in support of the said submission have been enclosed with the affidavit. On 14.3.2019, further photographs taken by the Department at Tagore Road, New Delhi Railway Station and Metro Station on 19.2.2019, 21.2.2019 and 1.3.2019 have been filed in support of their submission that all unauthorized hawkers/vendors are being regularly removed from Tagore Road.

5. On the last date of hearing, learned counsel for the petitioners had sought time to file photocopies of certain documents indicating *inter alia* that the petitioners were authorized *tehbazari* holders. Today, both the parties are *ad idem* that the petitioners were never allocated *tehbazari* sites but were granted hawking licenses. That being the position, the tabulated statement filed by the petitioners under the index dated 5.9.2019, runs contrary to the plea taken by learned counsel for the petitioners that the petitioners were squatters on the said road. The last two columns of the tabulated statement refer to the “*sites allocated as per tehbazari documents*” and “*the present site of squatting*”. There is no question of a hawker being permitted to squat at a site and carry on vending activities more so, when the hawking license issued in favour of the petitioners clearly states that they will only hawk at the hawking zone and will not stay at one place beyond 30 minutes.

6. We may also note that much water has flown under the bridge since the present petition came to be filed. Town Vending Committees (TVC) for each area have been duly notified by the Delhi Government on 17.9.2019. If the petitioners have a grievance against the alternative sites allocated to them by the respondent/Nr.D.M.C., they are at liberty to approach the TVC for appropriate relief.

7. The petition is disposed of on the above terms.



HIMA KOHLI, J


ASHA MENON, J

OCTOBER 17, 2019

NA/ajk/rkb