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

+ W.P.(C) 1747/2020

ASHWANI KUMAR

..... Petitioner

Through Mr.Devender Singh and Mr.Pradeep
Kataria, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION

AND ORS.

..... Respondent

Through Mr.Tushar Sannu, Standing counsel,
SDMC with Ms.Ankita Bhadouriya, Advs. for R-1
Mr.Sumit Jidani, Adv. for R-2/Delhi Police ASI
Rameshwar

Mr.Sunil Fernandes, Standing Counsel for BSES-
RPL with Ms.Anju Thomas, Adv. for BSES
Mr.Sanchit Bhushan and Mr.Rajiv R.Mishra,
Advs. for R-4

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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19.02.2020

CM APPL. No.6120/2020

Exemption allowed, subject to all just exceptions.

W.P.(C) 1747/2020

1. This Writ Petition is filed seeking the following reliefs:-

“a) to issue writ of mandamus directing respondent no. 1 to demolish all dhabas/food shops/rehris surfaced on the pedestrian path and roads at the Qutub Institutional Area illegally by way of encroachment;

b) to issue writ of mandamus directing respondent no. 2 to register an FIR for said encroachments and causing public nuisance against the owners of dhabas/food vans/food shops

and hawkers at the Qutub Institutional Area;

c) to issue writ of mandamus directing respondent no. 3 to take action against those dhabas owners for theft of electricity;

d) to issue writ of mandamus directing respondent no. 4 to take action against dhabas owners for theft of water and damaging pipe lines for water connection without permission;”

2. The petitioner had earlier also filed a Writ Petition being W.P.(C) 4765/2018 titled Ashwani Kumar vs. SDMC which was disposed of on 15.4.2019 with the following directions:-

“This writ petition has been filed by the petitioner with the following prayers:

“It is therefore most respectfully prayed that this Hon’ble Court may kindly passed orders with regard to the Qutab Institutional Area where illegal dhabas / rehri etc. Have been raised, in the interest of justice, thereby directing Respondents:

- i. to take immediate and prompt action against illegal activities of the dhabas / rehri owners and to submit the action taken report before this Hon’ble Court;
- ii. especially to MCD and Police authorities to ensure clearance of public road from dhabas etc. In future also in Qutub Institutional Area;
- iii. especially to BSES and Police to register cases for theft of electricity against dhabas / rehri owners in Qutab Institutional Area;
- iv. direct the respondents especially to Delhi Jal Board and Police authorities to remove obstructions created by dhabas / rehri owners by installing their illegal water taps;
- v. any other and further order (s) as this Hon’ble Court may deem fit and proper in the facts and

circumstances of the present case be also passed in favour of the Petitioner.”

Respondent /SDMC has filed the status report wherein in Para 7 and 8 it is stated as under:

7. That it is also pertinent to mention here that General Branch, Licensing department and Health Department of South Zone / SDMC are taking regular encroachment removal actions vide which the illegal squatters / encroachers are being removed from time to time.

Furthermore, it is relevant to state here that the answering respondent, SDMC has taken / carried out necessary encroachment removal actions vide dated 11/01/2018, 27/01/2018, 12/02/2018, 20/03/2018, 19/06/2018 and 10/07/2018 at the site in question and also in its surrounding area. During the aforementioned encroachment removal actions some temporary encroachments along with illegal Dhabas have been removed and several articles have also been seized. The photographs taken during the said actions along with copy of seizer memos of the articles seized are annexed herewith Annexure B (Colly)

8. That furthermore, it is submitted that immediately after taking the aforementioned encroachment removal actions the necessary letters bearing No.1710/AC/SZ/2018 and 1834/AC/SZ/2018 dated 09/08/2018 have also been sent to the concerned DCP requesting therein to direct the concerned police officials to keep vigil in the area so that encroachment shall not take place again. The copy of the letters in this regard are also annexed herewith as Annexure – C (Colly).

In view of the stand taken by respondent / SDMC, this Court is satisfied that for the present, SDMC has taken appropriate action.

It is made clear that if the petitioner is of the view that encroachments have resurfaced, petitioner shall be at liberty to approach this Court by way of a fresh petition.

The petition stands disposed of.”

3. It is clear that this Writ Petition seeks the same relief as was sought in the earlier Writ Petition being W.P.(C)4765/2018. However, learned counsel for the petitioner submits that after action was taken by the SDMC pursuant to the earlier Writ Petition, the Dhabas have again come up.

4. The respondent will ensure that such events do not reoccur. It will accordingly take steps as per law regarding Dhabas which have come up again.

5. With the above directions, petition stands disposed of. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

FEBRUARY 19, 2020

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