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

+ W.P.(C) 4277/2020 & CM APPL. 15403/2020

PROF. UPENDRA KAULPetitioner

Through: Mr. B.L. Wali and Mr. Arvind Chaudhary,
Advocates.

versus

SDMC & ORS.Respondents

Through: Mr. Gaurang Kanth, Standing Counsel for
SDMC/R-1.
Ms. Anya Singh, Advocate for GNCTD/R-2.
Mr. Himanshu Mahajan, Advocate for
RWA/R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **17.07.2020**

The hearing was conducted through video conferencing.

CM APPL. 15404/2020 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed-off.

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3. Issue notice.
4. The learned counsels named above accept notice on behalf of the respondents.
5. At joint request, the petition is taken up for disposal.
6. The petitioner is aggrieved by the closure of five out of the six entry/exit gates of the colony i.e. N-Block, Greater Kailash-1, New Delhi. The closure of Gate No. 5 in particular, is causing immense difficulty to the petitioner who is 72 years of age, a medical

practitioner and often has to attend to his ailing 92 year-old father, who requires frequent medical attention. It is argued that not only the petitioner but other residents, numbering about a hundred, who ordinarily used Gate No. 5 have, been immensely inconvenienced by the closure of the said gate. It has ostensibly been closed to minimise the spread of COVID-19 disease by restricting entry unauthorised people into the colony. The learned counsel for the petitioner submits that the petitioner too is concerned about the health, safety and security of all residents of the colony. However, the restrictions placed by the RWA should not be of the nature so as to make his living impossible and make access to his house cumbersome or onerous or to pose a serious obstacle to attending to the urgent needs of his aged father, as well as for accessing the market for purchase of household items or medicines for a pharmacy.

7. The matter was passed over for the learned counsel for the parties to find an amicable solution to the *lis*.
8. Mr. Gaurang Kanth, the learned Standing Counsel for the South Delhi Municipal Corporation (SDMC) submits that installation of Colony Gates are governed under the guidelines issued on 25.06.2007 by the Municipal Corporation of Delhi (Engineering Department). He refers to clauses (l), (m) and (n) of the said guidelines, which read as under:-

“...

(l) The gates so permitted, to be installed shall remain open during the daytime.

(m) During the night after 11.00 p.m. gates may be closed upto 5.00 a.m., but entry and exit facility shall be made available to the residents and entry/exit shall be manned by Watch and Ward to be appointed by the

RWAs at their cost.

(n) Wherever gates have been provided, there shall be a provision of wicket gate for easy access and entry for pedestrians.

... ”

9. The learned counsel for the respondent Residents Welfare Association (RWA) has sought instructions and states that the RWA has agreed and undertaken as under:-
 - (i) The Gate No. 5 shall be kept open for use of residents of the colony, their family members and authorized personnel from 6:30 am to 8:30 p.m.
 - (ii) The said gate would ordinarily be closed for entry of vehicles except for vehicles with the stickers of RWA.
 - (iii) Domestic assistants and other authorized personnel, before entering, may be screened through thermal screening and sprayed with disinfectant guns. The RWA may set up a makeshift kiosk for this purpose.
10. In view of the above, the SHO of the area is directed to assist the RWA for the first three days in monitoring the entry/exit, while they set up their mechanism. He may depute/instruct the Beat Staff to visit the area/Gate frequently – on his/her rounds, to obviate any difficulty which the RWA may face.
11. The police would also respond promptly to any call of distress from the RWA or any resident of the colony.
12. The petition, alongwith pending application, is disposed-off in terms of the above.
13. The parties are granted liberty to approach the Court in case of any

difficulty.

14. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through e-mail.

NAJMI WAZIRI, J

JULY 17, 2020
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