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

Date of decision: 20th October, 2020

\+ **W.P.(C) 4589/2020 & CM APPLs. 16586/2020, 16587/2020, 26728/2020**

MOHD JAFAR ..... Petitioner

Through: Dr. Janak Raj Rana, Advocate (M-9953954766).

versus

UNION OF INDIA THROUGH: SECRETARY & ORS. ..... Respondents

Through: Mr. Farman Ali Magray, Advocate for R-1 (M-9469448888).
Mr. Sanjay Dewan, Advocate for R-2 to 5 (M-9999648869).
Mr. Wajeeh Shafiq, Standing Counsel for Delhi Waqf Board.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done by video conferencing.

2. The present petition has been filed by the Secretary of the Basant Nagar Mosque located on Rao Tula Ram Marg, Delhi Cantonment, New Delhi. The case of the Petitioner is that the Mosque is more than 130 years old and is located within the limits of village Basant Nagar. The grievance in this petition is that in the month of November, 2019, barricades were placed in front of the Mosque's entrance and three constables were posted to perform picketing duty, which is causing inconvenience to the devotees, to access the gate of the Mosque. Accordingly, the prayer in the present petition is that the Delhi Police *(hereinafter as 'police')* ought to remove the barricades from

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its present place and move it a few meters ahead or behind the gate of the Mosque.

3. The Waqf Board has filed its response to this petition, and in the affidavit, it is stated that the counsel Mr. Wajeeh Shafiq himself visited the spot on 17th September, 2020 and found that the police has placed three barricades to slow down the incoming traffic for the purpose of checking. At the time of his visit, the barricades were manned by two armed policemen and according to him, the checking starts in the afternoon and continues till midnight and thereafter the barricades are removed, but placed in front of the gate of the Mosque. He relies upon the satellite images taken from the Google Earth maps to show the staggered manner in which the barricades are placed.

4. The Delhi police has placed its status report on record. The submission of Mr. Sanjay Dewan, ld. counsel appearing for the police is that the police has placed barricades, but these barricades do not block the entrance to the Mosque. There are two shops which are run by the Mosque Management Committee and the revenue from these shops is used to manage the Mosque. There were some PCR calls on this stretch of Rao Tula Ram Marg, which have been received and incidents of snatching, robberies and accidents were reported. The police found that the traffic which comes out from Vasant Vihar going to Gurgaon was exiting Vasant Vihar without any checking, and the Mosque is located in an isolated area. Accordingly, barricades were put up. He further submits that a picket has also been put up by the police about 10 meters from the entrance of the Mosque. This was done after a letter was received from the Defence Estate Office, Delhi Circle, Delhi Cantt., for removal of unauthorised construction and encroachment on

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defence land, and it was found that the Secretary is in unauthorized occupation of land of 0.716 acres, and has been commercially exploiting the same. The police, however, assures the Court that the barricades would not, in any manner, result in creating any obstruction for devotees to perform prayers in the Mosque.

5. After going through the records, and the photographs which have been placed on record, there seems to be some variance between the version being given by the police, and the Google Earth images which have been placed on record. Even going by the Google Earth images, the barricades have been placed in a zig-zag or staggered manner so as to ensure that each and every vehicle entering the Mosque can be checked. However, the photographs placed by the police show that the barricades are beyond the entrance of the Mosque.

6. Since there is variance between the two versions being given, and also considering the affidavit of the Delhi Waqf Board and the status report of the police, the following directions are issued:

i. The police shall ensure that the barricades are erected on the road at least 10 meters prior to the entrance of the Mosque or ahead of the entrance of the Mosque, so as to ensure that in front of the Mosque there is no obstruction for the devotees, to enter through the gate of the Mosque;

ii. The administration of the Mosque shall ensure that in the shops being run outside, there is no gathering of a crowd which would create any obstruction to the commuters using the road, which is stated to be the exit from Vasant Vihar towards Gurgaon;

iii. The police shall also ensure that if there is any checking of

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vehicles which is required, adequate number of constables are posted on the site so as to carry out the checking, either 10 metres before the vehicles enter the mosque or 10 meters after the gate of the mosque, without impeding the devotees from entering the Mosque.

7. Insofar as the allegations of any unauthorized construction or encroachment are concerned, this Court has not examined the said issue and the authorities are permitted to take action in accordance with law. The Mosque Management shall, however, ensure that there is no unauthorized construction or encroachment in the Mosque area, and the Mosque area is only used by devotees to offer prayers.

8. All the parties are agreeable to the above directions which are being passed today, and submit that no further directions are sought. Accordingly, the present petition and all pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

OCTOBER 20, 2020
Rahul/A.K

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