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

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Judgment delivered on: 08.02.2021

+ W.P.(C) 1583/2021

RAKESH TIWARI

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION

.....Respondent

Advocates who appeared in this case:

For the Petitioner:

Mr. Rajiv Bansal, Senior Advocate with Ms. Jasmeet Kaur Ajimal & Ms. Nandita Sharma, Advocates.

For the Respondent:

Mr. Gaurang Kanth, Standing Counsel for SDMC.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.4482/2021(exemption)

Exemption is allowed subject to all just exceptions.

W.P.(C) 1583/2021 & CM APPL.4481/2021(stay)

1. The hearing was conducted through video conferencing.
2. Petitioner seeks a direction to the respondent to decide the representation of the petitioner dated 12.01.2021 for remission of monthly license fee and till then not to cancel the license to run the parking site and not to take any coercive action in respect of show-cause notice dated 06.01.2021.

Signature Not Verified

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MAGGU
Signing Date: 08.02.2021 23:18:36
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to HMJ Sanjeev Sachdeva.

W.P(C) 1583/2021

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3. Learned Senior Counsel for the petitioner contends that the parking lot was allotted to the petitioner in the year 2018. However, since there was a construction work going on for a period between 29.06.2019 to 29.06.2020, the parking lot could not be utilized and further it is contended that because of the lock down imposed on the city, the District Centre, Janakpuri was not fully operational which had impacted parking.

4. Learned senior counsel further submits that a show-cause notice has been received threatening coercive action against the petitioner and petitioner has responded to the show-cause notice and also given a representation placing on record *inter alia* the above facts.

5. Learned Senior Counsel prays that an opportunity of a personal hearing be granted to the petitioner before finally deciding the show-cause notice.

6. Issue notice. Notice is accepted by learned counsel appearing for the respondent who submits that in view of Clause 24 of the Agreement between the parties, no remission can be granted till the entire monthly license fee has been paid.

7. In view of the peculiar facts and circumstances of the case, respondent is directed to grant the petitioner an opportunity of a personal hearing and since the most of the grounds taken by the petitioner in his reply to the show-cause notice as well as the representation are common, respondent shall decide the show-cause notice and take into account the submissions made by the petitioner in his reply as well as in his representation prior to taking a final view on the show-cause notice.

8. Petitioner shall appear before the Assistant Commissioner, Remunerative Project Cell on 15.02.2021 at 3.00 PM. The concerned Officer shall pass a speaking order after granting an opportunity of hearing to the petitioner.

9. It is clarified that this order is without prejudice to the stand of the respondent with regard to Clause 24 of the Contract.

10. All rights and contentions of parties are reserved.

11. Petition along with application is disposed of in the above terms.

12. In case any adverse order is passed against the petitioner, respondent shall defer coercive action for a period of one week to enable petitioner to avail his remedies in accordance with law.

13. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J

FEBRUARY 8, 2021
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