**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP Nos. 6173, 15067, 15075, 15079, 15080, 15081, 15083, 15085, 15090, 15092, 15093, 15095, 15098, 15549, 16552, 10880, 15694, 16532, 16576, 16599, 17915 and 19256 of 2022
Date of decision: 30.08.2022

Sagar Sindhwani and others ....Petitioner(s)

Versus

State of Haryana and others ....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Arjun Kapur, Advocate,
for Mr. Tushar Sharma, Advocate,
for the petitioners (in CWP-6173-2022).

Mr. G.P. Vashist, Advocate,
and Mr. Rohit Joshi, Advocate,
for the petitioner (in CWP-19256-2022).

Mr. A.S. Shera, Advocate,
for the petitioner(s) (in CWP Nos.15067, 15075, 15079, 15080, 15081, 15083, 15085, 15090, 15092, 15093, 15095, 15098, 15549, 16552, 16532, 16576 and 16599 of 2022).

Mr. Arvinder Arora, Advocate,
for the petitioner(s) (in 10880 and 15694 of 2022).

Mr. Mohan Singh Rana, Advocate,
for the petitioner (in CWP-17915-2022).

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Mr. Ankur Mittal, Advocate,
and Ms. Kushaldeep Kaur, Advocate,
for respondent Nos.2 and 3 (in CWP-6173-2022).

Mr. B.R. Mahajan, Sr. Advocate,
with Mr. Padamkant Dwivedi, Advocate,
and Mr. Piyush Bansal, Advocate,
for Municipal Corporation, Gurugram.

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G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 22 civil writ petitions i.e. CWP Nos. 6173, 15067, 15075, 15079, 15080, 15081, 15083, 15085, 15090, 15092, 15093, 15095, 15098, 15549, 16552, 10880, 15694, 16532, 16576, 16599, 17915 and 19256 of 2022, as common questions of facts and law are involved in all the writ petitions. For reference, ***CWP No. 6173 of 2022, Sagar Sindhwani and others vs. State of Haryana and others*** is being taken up.

The prayer in the present writ petition is for issuance of directions to respondents not to cancel the vending license of the petitioners without following due process of law and remove/evict the petitioners from their respective present locations where they are operating their street vending carts for the area of Gurugram. Initially, challenge was also raised to the show cause notice dated 23.04.2021 (Annexure P-1) wherein, petitioner No.1 was put to notice that he was not working as per the Rules and Norms of the The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (in short 'the 2014 Act') and there were various violations and the other petitioners were also issued similar notices.

Firstly, we are of the considered opinion that the writ petitions as such would be pre-mature if show cause notices have been issued and it is for the petitioners to file their responses in pursuance of the show cause notices so that a decision could be taken by the competent authority.

Even otherwise, the stand of the respondent-Corporation is that the petitioners did not have the certificate of vending as required as per the

2014 Act and as per the survey conducted in the year 2014, the number of street vendors were identified as 14175 as biomatric cards were also issued to the vendors. The other survey was conducted in the year 2018 and total number had increased to 18670. It was further mentioned that 37 places were identified in the municipal limits of Gurugram and it had been planned to start the street vending market at 11 sites initially on pilot basis. The office of the answering respondents identified 148 sites for the purpose of vending zone and the same had been approved by the Town Vending Committee (TVC) and the original vendors were already re-located to the appropriate site in a phased manner.

It was mentioned that the petitioners were not registered as vendors in both the surveys and they were not covered. The respondents had no objections to vendors carrying out their vending activities even if they were not covered under the surveys, till the implementation of the Act is completed but they were not to squat or trade at a place where they cause hindrance to traffic and inconvenience to the general public. It is further mentioned that license and card number receipts produced by the petitioners had not been issued by the office of the answering respondents and no letter of recommendation had been issued in their favour. It was averred that M/s. NASVI Street Food Pvt. Ltd., on the pretext of government fee, collected huge amount of money and failed to deposit the share with the Municipal Corporation in a designated bank of the TVC and, thus, caused humongous loss to the public exchequer. The firm had issued fake and bogus receipts to the street vendors without any approval/authorization from the competent authority of the Corporation and was guilty of defrauding the innocent street vendors. FIR No. 180 dated 19.08.2021 had been lodged against the firm and, therefore, it was averred that it would not make the answering respondents liable to establish the vending cart of the petitioners in the vending zones when in reality the petitioners have also been duped by the private company in a fraudulent manner. Copy of the FIR was also appended as Annexure R-1.

It has also been averred that the impugned show cause notice dated 23.04.2021 (Annexure P-1) had not been replied and the minutes of the TVC were annexed as Annexure R-2. Reliance was placed upon the provisions of Section 4(2) of the 2014 Act and Section 20 of the said Act that there was a District Street Vendors Dispute Committee in place vide order dated 15.03.2022. It is further averred that the agencies were permitted to charge Rs.1,500/- from the street vendors and a sum of Rs.1,000/- was to be the convenience charge/service charge and Rs.500/- was to be deposited with the Corporation/TVC. Complaints had been received by the Municipal Corporation and the inquiry had been conducted by Shri Rohtash Bishnoi, Additional Municipal Commissioner that the agencies had collected amounts from vendors but not deposited them and, thus, were facing the charge of criminal breach of trust and cheating.

Counsel for the respondents have also pointed out that an earlier order was passed pertaining to Municipal Corporation, Gurugram also in a bunch of 10 cases, the lead case of which was CWP No. 19948 of 2016, Badan Singh and others vs. State of Haryana and others wherein, keeping in view the provisions of Section 20 of the Act and the fact that the District Street vendors Disputes Redressal Committee was in place for Gurugram, the petitioners had been relegated to the alternative and efficacious remedy available. The same was in view the law laid down in ***United Bank of India***

vs. Satyavati Tandon and others, (2010) 8 SCC 110 by noticing that there was Appellate Forum also provided under the Act and the State was directed to ensure all mechanisms regarding redressal of disputes are to be into place. This Court had also noticed that each and every person's individual rights are involved which could only be redressed by the Grievance Committee by calling upon the response from the authorities and the matter could not be addressed in a representative capacity, as was sought to be done by filing a large number of writ petitions and by clubbing different persons vending in different wards at different locations. It was noticed that there were factual aspects which had to be adjudicated and disputed issues arise which could not be decided on the basis of affidavits and, therefore, the matter had been remanded to the alternative and efficacious remedy.

In the said case, the earlier stand of the Corporation which was from the year 2016, had been taken into account by noting the number of vending sites and the vendors registered and identified which has also now increased, as noticed above, on account of the interim period of two years.

Another factor which is now to be noticed is that the agencies which had been granted the task and the role of monitoring and collecting the fees are otherwise being prosecuted on account of causing fraud and criminal breach of trust. The said agencies are stated to be out of the four agencies given the task and 3 agencies are being proceeded against for fraud and criminal breach of trust namely M/s. Spick and Span Service Pvt. Ltd, Leo Mediacon and M/s. Egmac Pvt. Ltd.

In such circumstances, since serious allegations as such of fraud also are there and the claim of several petitioners are that they have deposited huge amounts with the said agencies on the basis of which they are seeking their legal rights, it would be for the Committee as such to examine these aspects.

Resultantly, we are of the considered opinion that the matter should be relegated to the said Redressal Committee. Let all the concerned petitioners approach the Committee as such with their specific claim and keeping in mind the claim and the documents as such which are produced and after taking into account the stand of the Corporation, the Committee shall take appropriate steps in accordance with law and protect the interest of the vendors wherever the need arises. In case it comes to the conclusion that they require protection as such on account of having been registered and having deposited the requisite fees with the competent authority on the basis of adequate proof being furnished, since an interim order had been passed in one of the cases on 25.03.2022 whereby, status quo was to be maintained, we are of the considered opinion that the said protection is liable to be extended for a period of 21 days from today in all cases. The said protection shall be extended by the Committee as such after taking into account the peculiar facts of each claimant.

(G.S. SANDHAWALIA)
JUDGE

30.08.2022
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking Yes/No
Whether reportable Yes/No