



IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 19.07.2022

W.P.(C) 7189/2022 & CM APPL. 22032/2022 (Exemption)

W.P.(C) 7190/2022 & CM APPL. 22033/2022 (Exemption)

W.P.(C) 4002/2022

W.P.(C) 7189/2022 & CM APPL. 22032/2022 (Exemption)

REKHA DEVI & ORS.

..... Petitioners

versus

STATE GOVT. OF NCT OF DELHI & ANR. Respondents

S-40

W.P.(C) 7190/2022 & CM APPL. 22033/2022 (Exemption)

VINOD KUMAR & ORS.

..... Petitioners

versus

STATE GOVT. OF NCT OF DELHI & ANR....Respondents

S-42

W.P.(C) 4002/2022

ANUJ KUMAR & ORS.

..... Petitioners

versus

STATE GOVT. OF NCT OF DELHI & ANR.... Respondents

Advocates who appeared in this case:

For the petitioner : Mr. V.K. Mishra and Ms. Monika Sharma,
Advocates.

For the respondent: Mr. Sanjeev Sabharwal, Standing Counsel for MCD
in W.P.(C) 7189/2022.



Ms. Puja Katta, Standing Counsel for MCD in
W.P.(C) 7190/2022 & W.P.(C) 4002/2022.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE AMIT SHARMA

J U D G M E N T

SIDDHARTH MRIDUL, J. (OPEN COURT)

CM APPL. 22032/2022 (Exemption) in W.P.(C) 7189/2022

CM APPL. 22033/2022 (Exemption) in W.P.(C) 7190/2022

Exemption allowed subject to all just exceptions.

The applications stand disposed of.

W.P.(C) 7189/2022, W.P.(C) 7190/2022 & W.P.(C) 4002/2022

1. With the consent of learned counsel appearing on behalf of the parties, these writ petitions have been heard finally and are being disposed of by this common order.
2. We have heard learned counsel appearing on behalf of the parties and perused the pleadings on the record.
3. These similar writ petitions under Article 226 of the Constitution of India, have been instituted by duly appointed members of the Town Vending Committee (hereinafter "TVC") by the Municipal Corporation.
4. The solitary relief canvassed before us, is to the effect that, as duly appointed members of the TVC, the petitioners, are entitled to receive such allowances as may be prescribed, in accordance with law.



5. The provision of Section 22 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (“SV Act”), dealing with the appointment and terms and conditions of service of members nominated to the TVC, stipulates as follows:-

“22. Town Vending Committee

(1) The appropriate Government may, by rules made in this behalf, provide for the term and the manner of constituting a Town Vending Committee in each local authority:

PROVIDED that the appropriate Government may, if considers necessary, provide for constitution of more than one Town Vending Committee, or a Town Vending Committee for each zone or ward, in each local authority.

(2) Each Town Vending Committee shall consist of:-

(a) Municipal Commissioner or Chief Executive Officer, as the case may be, who shall be the Chairperson; and

(b) such member of other members as may be prescribed, to be nominated by the appropriate Government, representing the local authority, medical officer of the local authority, the planning authority, traffic police, police, association of street vendors, market associations, traders associations, non-governmental organizations, community based organizations, resident welfare associations, banks and such other interests as it deems proper;

(c) the number of members nominated to represent the non-governmental organizations and the community based organizations shall not be less than ten per cent;

(d) the number of members representing the street vendors shall not be less than forty per cent who shall be elected by the street vendors themselves in such manner as may be prescribed:



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PROVIDED that one-third of members representing the street vendors shall be from amongst women vendors:

PROVIDED FURTHER that due representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities from amongst the members representing street vendors.

(3) The Chairperson and the members nominated under sub-section (2) shall receive such allowances as may be “prescribed” by the appropriate Government.”

6. It is observed that, Section 2(h) of the Act defines “prescribed” as:-

(h) “prescribed” means prescribed by rules made under this Act by the appropriate Government;

7. It is an admitted position that, pursuant to coming into force of the said Act, the appropriate Government i.e. the Government of National Capital Territory of Delhi, has enacted Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017 (hereinafter referred to as the ‘said Rules’), providing for protection of livelihood and regulation of street vending w.e.f. 11.01.2018.

8. It is observed that, Rule 18 of the said Rules, provides as follows:-

“18. Allowances of the members of Town Vending Committee



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The allowances payable to the members of a Town Vending Committee, who do not hold any office of profit, shall be at the rate to be fixed by the concerned Commissioner/Chairperson/CEO of the Local Authority from time to time.”

9. Upon a conjoint reading of the above extracted provisions of the law, we are of the considered view that, except for members of the TVC, who hold an office of profit; the other nominated members are entitled to allowances at the rate to be fixed by the concerned Commissioner of the Local Authority i.e. Municipal Corporation in the instant case, in terms of the provisions of Section 2(c) of the Act.

10. It is further noted that the respondent No. 1/Government of NCT of Delhi, in W.P. (C) No. 4002/2022, titled '*Anuj Kumar & Ors. vs. State Govt. of NCT of Delhi & Anr.*', in an affidavit dated 09.05.2022, authored by Mr. Rajender Kumar Ahuja, Deputy Director (Local Bodies), Government of NCT of Delhi, at para 4 and 5, it has been stated;-

“4. Section 22(3) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2013 provides that the Chairperson and the members nominated to the TVC shall receive such allowances as may be prescribed by the appropriate Government. Further, Rule 18 under the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017 states that the allowances payable to the members of a Town Vending Committee, who do not hold any office of profit, shall be at the rate to be fixed by the concerned Magistrate/Chairperson/CEO of the Local Authority from time to time.



5. The responsibility for payment of salary and allowances to the members of the TVC lies on the Local Authority, i.e. North Delhi Municipal Corporation in the present case. There is no separate disbursement made by the Answering Respondent/GNCTD to local authorities for this purpose. In fact, the Petitioners have themselves stated in Ground D to the writ petition that a direction to Respondent No. 2 (North MCD) will be sufficient towards redressing of the grievance of the petitioners.”

11. We, therefore, direct the Commissioner of the Municipal Corporation of Delhi, to fix the allowances payable to the petitioners, as nominated members of the concerned TVC, forthwith, in accordance with law.

12. No further reliefs are prayed for.

13. With the above direction, the writ petitions are partly allowed and disposed of.

**SIDDHARTH MRIDUL
(JUDGE)**

**AMIT SHARMA
(JUDGE)**

JULY 19, 2022/rs

[*Click here to check corrigendum, if any*](#)