



#S-12

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 21.07.2023

W.P.(C) 7705/2023 & CM APPL. 29798/2023 (for interim relief)

VIRPAL AND ORS

....Petitioners

Versus

MUNICIPAL CORPORATION OF DELHI AND ORS..Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Bibhuti Bhushan Mishra, Mr. Kamlesh Kumar Mishra, Mr. Aditya, Mr. Kailash and Mr. Anjani Mishra, Advocate.

For the Respondents : Ms. Puja Kalra, Standing Counsel for Mr. Divya Prakash, Pande, Standing Counsel for R-1/MCD. Mr. Sanjay Lao, Standing Counsel (Criminal) along with Ms. Priyam Agarwal, Advocate for R-2 & R-3 with Inspector Manu Dev, P.S.: Kalkaji.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANISH DAYAL

J U D G M E N T

SIDDHARTH MRIDUL, J. (OPEN COURT)



1. The present writ petition under Article 226 of the Constitution of India, has been instituted on behalf of the petitioners, praying as follows:-

“In the facts and circumstances stated herein above, it is Most respectfully prayed that this Hon'ble Court may graciously be pleased to:

I. Pass an Order directing the respondents to ensure that the petitioner Street Vendors be allowed to peacefully vend in terms of the vending certificate issued to them, on their vending sites i.e., On the Pavement at Astha Kunj Road, Opposite Satyam Cinema, Nehru Place, South Zone, Ward-S-86, without any hindrance being caused by any public official.

II. Pass an order directing the SHO, PS Kalkaji to ensure that the petitioners shall not be forcefully removed from their vending sites.

III. Pass an order directing the respondents, their official,/ their agents etc. be restrained from harassing the petitioners from peacefully vending at their vending sites.

IV. Pass an order for quashing and setting aside the terms of certificate of vending printed at the back side of the vending certificate to the extent which is not applicable to a stationary street vendor.

V. Pass any such directions or order that this Hon'ble Court deems fit and proper in the facts and circumstances of the above-mentioned case.”

2. Issue notice.



3. Ms. Puja Kalra, learned Standing Counsel, accepts notice on behalf of the respondent No. 1/MCD and Mr. Sanjay Lao, learned Standing Counsel (Criminal) accepts notice on behalf of the respondent Nos. 2 and 3.

4. Learned Standing Counsel appearing on behalf of the MCD, has invited our attention to the terms and conditions, permitting the petitioners to vend.

5. For the sake of completeness, the said terms and conditions attached to the Certificate of Vending, are reproduced herein below:-

- “1. Vendor shall not have any other permanent or long-term vending certificate.
2. Vending certificate is non-transferable.
3. It is mandatory for the vendor to follow the vending period and zone as determined by TVC or local body.
4. Vendor shall not give his vending certificate on rent in any way.
5. Vendor shall not have any infectious disease.
6. Vendor shall have to take care of hygiene on vending place/zone and nearby area and also take care of public health.
7. Vendor shall display copy of vending certificate on his place/vending site and will produce original documents to TVC/concerned inspector whenever required.



8. Vendor/Squatter shall insure that no hindrance be caused to pedestrian and vehicular moment.
9. Vendor shall not vend/sell any harmful, dangerous and polluted items. It should also be ensured that the quality of the products sold and services provided to the public conform to the prescribed standards of public health, hygienic conditions and safety.
10. The street vendor shall not do any unauthorized/illegal activity.
11. **Mobile vendors shall not stay or vend more than 30 minutes or time prescribed by the TVC at place in a vending/squatting zone.**
12. Vendors will not block footpaths and will not vend on roads. Vendor should take care of space in front of vending stalls/counters on footpath for pedestrians.
13. Vending certificate can be cancelled or suspended on the basis of violations.
14. Vendor shall not build or construct any kind of permanent or temporary structure at vending site.
15. Seller shall adopt health and hygiene conditions as required by local laws and court orders.
16. Vendor have to follow all the conditions mentioned in Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019.”



6. In terms of the Certificates of Vending issued to the petitioners, it is clearly stipulated that they cannot vend from any particular location, contrary to the express terms of **Clause no. '11'**, of the said Certificates of Vending. It is further observed that since the Town Vending Committee (TVC) is yet to fix a time limit, providing for a period, during which vendors can vend from any particular spot, the stipulation of 30 minutes time, contained in the said clause, is binding on the petitioners, at this stage. Learned counsel appearing on behalf of the petitioners states, that they do not pray for the relief of running their business from any particular vending site, within the zone where they have been permitted to vend by the Municipal Corporation of Delhi.

7. It is an admitted position that the Town Vending Committee (TVC), has in terms of the directions issued by this Court, from time to time, as well as, in terms of the mandate of **Section 3 (*Survey of street vendors and protection from eviction on relocation*)** and **Section 4 (*Issue of certificate of vending*)** of the **Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014**, carried out a survey, in some of the areas under the MCD zones; pursuant to which, the following petitioners have been issued certificates of vending, which are annexed as **Annexure P-3**, to the present writ petition.



<u>S.NO.</u>	<u>NAME OF THE STREET VENDORS</u>	<u>DATE OF ISSUE OF VENDING CERTIFICATE</u>	<u>PLACE OF VENDING</u>	<u>VENDING CERTIFICATE (URI)</u>	<u>CATEGORY OF THE COV ISSUED</u>
1	Mr. Virpal	06.11.2021	South Zone, Ward-S-86	4064034	Food/Snack with gas cylinder/fire
2	Mr. Mohd. Sagir	06.11.2021	South Zone, Ward-S-86	7410649	Food/Snack with gas cylinder/fire
3	Mr. Ramesh Kumar Saw	06.11.2021	South Zone, Ward-S-86	5553070	Food/Snack with gas cylinder/fire
4	Mr. Suresh Saw	06.11.2021	South Zone, Ward-S-86	5842534	Food/Snack with gas cylinder/fire
5	Mr. Ravi Kumar	06.11.2021	South Zone, Ward-S-86	1692921	Food/Snack with gas cylinder/fire
6	Mr. Bablu Kumar	06.11.2021	South Zone, Ward-S-86	6686093	Food/Snack with gas cylinder/fire

8. In view of the foregoing, learned counsel appearing on behalf of the petitioners, categorically limits the relief in the present writ petition, to a direction to the Municipal Corporation of Delhi, to permit the aforesaid petitioners to continue to vend within **South Zone, Ward-S-86**, strictly and scrupulously in compliance with the terms and conditions of the said certificates of vending, particularly **Clause no. 11**, and in accordance with law.



9. In view of the above, the present writ petition is partly allowed; and the Municipal Corporation of Delhi is directed to permit the petitioners to vend within **South Zone, Ward-S-86**, subject to the terms and conditions of the aforementioned certificates of vending dated **06.11.2021**, without any let or hindrance.
10. No further directions are prayed for.
11. With the above directions, the writ petition is disposed of accordingly. The pending application also stands disposed of.
12. A copy of this judgment be uploaded on the website of this Court *forthwith*.

**SIDDHARTH MRIDUL
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

JULY 21, 2023/rs

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