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

+ **W.P.(C) 15590/2022 & CM APPL. 48509/2022**

NARESH PAHADIYA

..... Petitioner

Through: Mr. Mohd Asif with Mr. Aagam Jain,
Advocates with petitioner in person.

versus

MUNICIPAL CORPORATION OF DELHI & ORS..... Respondents

Through: Mr. Anuj Chaturvedi, Standing
counsel with Ms. Shreya Manjari,
Advocate for respondent no. 1/MCD.
Ms. Urvi Mohan, Adv. for R- 2 to 4.
Mr. Satyakam, ASC, GNCTD with
Mr. Pradyeet Kashyap, Advocate for
respondent no. 4 (GNCTD)
Mr. J.P. Singh with Ms. Sonia and
Mr. Navjot Singh, Advocates for
respondent no. 6 and 7.

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Date of Decision: 30th October, 2023

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MANMOHAN, J: (ORAL)

1. Present writ petition has been filed for issuance of directions to the respondents for grant of license / permission to the petitioner to run a tea stall and to allow him to vend at his previous vending site i.e. in front of Shiv Shakti Durga Mandir, Opposite Select City Walk Mall, Khirki Village, New Delhi- 110017 in accordance with the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, hereinafter referred to as 'Street Vendors Act'.



2. Learned counsel for the petitioner states that the petitioner has been running a tea stall at the vending site since 2005 and he has been illegally removed from the said vending site by the Sub-Divisional Magistrate (for short 'SDM').
3. Learned counsel for the petitioner further states that the Court of State Commissioner for Persons with Disabilities, National Capital Territory of Delhi vide order dated 27th July, 2017 in the case titled as '**Naresh Paharia Vs. SDMC**' has recommended that the persons with disabilities who were vending as on 13th September, 2013 should not be disturbed and be allowed to earn their livelihood by selling various articles.
4. Learned counsel for the petitioner also states that the petitioner was surveyed on 20th March, 2021 by the SDMC as per the Street Vendors Act, 2014 and the acknowledgement issued to the petitioner has been placed as Annexure-P15 to the present writ petition.
5. Learned counsel for respondent no. 1 -Municipal Corporation of Delhi states that the averment in the writ petition is contrary to what the learned counsel for the petitioner has argued before this Court inasmuch as in the writ petition it has been averred that the petitioner has been dispossessed from his vending site by the Priest of the Shiv Shakti Durga Temple. He states that there is no allegation in the writ petition that the petitioner has been dispossessed by the officials of the Municipal Corporation of Delhi. He also states that the Certificate of Vending and site allotment order has to be issued by the Town Vending Committee-II and/or the GNCTD. He emphasises that the process of allotment of sites to the identified street vendors including the petitioner will be undertaken by Town Vending Committee-II as and when it is constituted.



6. Learned counsel for respondent no. 6 and 7 states that the said respondents are not in control or management of the temple. He states that respondent 6 and 7 are only devotees of the Shiv Shakti Durga Temple. He also states that the petitioner's son ,who was operating the vending site close to the temple, had been arrested by the police as he was involved in drug peddling.

7. Having heard learned counsel for the parties, this Court finds that petitioner has placed on record copies of challans issued by the South Delhi Municipal Corporation evidencing hawking in the past by the petitioner in South Delhi Municipal Corporation.

8. Moreover in the short affidavit dated 03rd July, 2023 filed by the Municipal Corporation of Delhi , it has been admitted that the petitioner has been removed from the alleged vending site by the land owning agency i.e. Delhi Development Authority ("DDA"). It is also admitted in the short counter affidavit that the petitioner has been surveyed and necessary acknowledgment receipt attached as Annexure P15 has been issued by Town Vending Committee-I.

9. Keeping in view the aforesaid, this Court is of the opinion that as the petitioner is suffering from a disability and has been issued an acknowledgment receipt during the survey carried out by Town Vending Committee-I, the petitioner is entitled to vend in accordance with Section 3(3) of the Street Vendors Act till the Town Vending Committee-II takes a final decision on the petitioner's application for issuance of a vending site.

10. Consequently, respondent no. 1-Municipal Corporation of Delhi is directed to allot an alternative vending site to the petitioner in any of the authorised vending zones in its area within two weeks. However, the



petitioner shall operate the vend strictly in accordance with the terms and conditions imposed by respondent no. 1.

11. If the Beat Constable of the area finds that any illegal activity is being done by the petitioner or any of his family members, on the site that is allotted to the petitioner, he shall be at liberty to approach the Municipal Corporation of Delhi for cancellation of the said vending site.

12. It is clarified that this order shall enure to the benefit of the petitioner only till the time Town Vending Committee-II takes a final decision with regard to the application filed by the petitioner.

13. Needless to state, the Town Vending Committee-II shall take a decision on the merits of the application filed by the petitioner without being influenced by any observation made by this Court.

14. Accordingly, the present writ petition along with pending application stands disposed of.

MANMOHAN, J

MINI PUSHKARNA, J

OCTOBER 30, 2023

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