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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 269/2024 & CM APPL. 1220/2024 (Interim Relief)
ASHA GUPTAPetitioner

Through: Ms. Renu, Ms. Shivani Verma
& Mr. Kamlesh Kumar Mishra,
Advocates

versus

NEW DELHI MUNICIPAL COUNCIL &
ORS.Respondents

Through: Mr. Sriharsha Peechara,
Standing Counsel with Mr. D.S.
Bhanu, Advocate

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER
25.09.2024

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1. The writ petition has been preferred seeking the following reliefs: -

“I. For an order directing the officials of the NDMC as well as Delhi Police to allow the Petitioner to peacefully vend at her vending spot i.e. Opposite Shop No. 64, Sarojini Nagar, Sarojini Nagar, Delhi.

II. That the petitioner be included in the survey which the Town Vending Committee (TVC) of the NDMC area is going to conduct in the Sarojini Nagar Market in accordance with the provisions of THE STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) ACT, 2014 at the same spot where the petitioner has been vending since the year 2011 and the details of which have been mentioned in para 5 the Petition.

III. Pass an order directing the respondents to consider and pass appropriate orders on the representations made by the Petitioner to the concerned authorities after giving opportunity of being heard to the petitioner.”

2. The case of the writ petitioner is that she is the widow



and street vendor who was carrying on vending activities opposite Shop No. 64, Sarojini Nagar Market, Sarojini Nagar, New Delhi. It is asserted that the aforesaid spot was occupied by her husband prior to 2018 when he unfortunately passed away. It is further asserted that the respondents have acceded to the consideration of similar claims bearing in mind the decision handed down by the Court in **Kishwari Begum v New-Delhi Municipal Council** [2024 SCC OnLine Del 6376].

3. We note that the Court in *Kishwari Begum* was again concerned with the claim of a widow who claimed seniority pursuant to the vending activities that had been undertaken by her spouse albeit while not holding a certificate of vending. Dealing with such contingencies, the Court in *Kishwari Begum* had ultimately held as follows: -

“10. It is submitted that the petitioner being the sole legal heir of her deceased husband is also entitled to be accorded some seniority for the purpose of allocation of vending spaces. He also relies on Section 5(2) of the Street Vendors Act which reads as under:-

“5. (2) Where a street vendor to whom a certificate of vending is issued dies or suffers from any permanent disability or is ill, one of his family member in following order of priority, may vend in his place, till the validity of the certificate of vending—

(a) spouse of the street vendor;

(b) dependent child of the street vendor:

Provided that where a dispute arises as to who is entitled to vend in the place of the vendor, the matter shall be decided by the committee under section 20.”

11. In the present case, the petitioner’s deceased husband had not been issued any COV under the Street Vendors Act. However, there is no dispute if such a certificate had been issued, the petitioner would be entitled to have her name included in the COV in place of her deceased husband, as his widow.



12. Although, the petitioner's deceased husband had not been issued any COV, we are of the view that the same benefit ought to be made available to the petitioner as well. The petitioner cannot be prejudiced by the delay in issuance of COV or implementation of the Street Vendors Act. Consequently, we find merit in Mr. Sahoo's contentions that the petitioner would have the right to participate in the elections of the TVC in place of her deceased husband as stipulated under Rules 13 of the Vending Rules.

13. There is also no cavil with Mr. Sahoo's contention that, once the petitioner's claim is verified, she would also be accorded the benefit of the criteria for allocation of *tehbazari* license as stipulated under paragraph 3.3 of the Scheme.

14. In view of the above, we consider it apposite to dispose of the present petition by directing that the petitioner would be entitled to exercise the same rights as her deceased husband was under Rule 13 of the Vending Rules and would be accorded the benefit of seniority as her deceased husband would have been entitled to in terms of paragraph 3.3 of the Scheme, if he was alive, at an appropriate stage."

4. In view of the aforesaid, learned counsel appearing for the NDMC states that in the exercise of verification which is likely to be undertaken any evidence that the petitioner may choose to place in support of the claim of the deceased husband vending from the spot in question and the issuance of the certificate having been delayed would be duly taken into consideration for the purposes of examining the seniority position liable to be accorded to her.

5. Subject to the aforesaid observations, the writ petition shall stand disposed of.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

SEPTEMBER 25, 2024/sk