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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1263/2024 CM APPL. 5272/2024 CM APPL. 5273/2024

KULDEEP SINGH AND ORS

..... Petitioner

Through: Mr.N.K.Sahoo, Advocate.

versus

MUNCIPAL CORPORATION DELHI AND ORS

..... Respondent

Through: Ms.Puja Kalra, Standing Counsel and
Mr.Virender Singh, Advocate for
MCD.

Mr.Rishikesh Kumar, ASC,
Ms.Sheenu Priya, Mr.Atik Gill,
Mr.Sudhir Kumar Shukla and
Mr.Sudhir, Advocates for GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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30.01.2024

1. The petitioners have filed the present petition, *inter alia*, praying as under:

“I) To issue a writ of mandamus or appropriate writ or direction or order or orders directing the Respondent to comply SCHEME OF 2007 in respect of vending and Non Vending Zone in view of its statement made before this Hon’ble Court on 11.01.2024 in the matter of Hawkers Suraskha Foundation Vs NDMC &Ors in Writ Petition No.16468/2023;

(II) To issue a writ of mandamus or appropriate writ or direction or order or orders quashing the declaration of the area as Non- vending of Area by the minutes of meeting dated 12.07.2023 in suppression of the terms of reference made in order dated 23.05.2023 passed in contempt case No 714/2023 as well as without following the provision of law under section 23 of street Vendors Act 2014 & Clause (iii) of Rule 20 of Street Vendors Rule 2017 as well as section 21 of Street Vendors (Protection of livelihood and Regulation of Street Vending) Act, 2014 ;



(III) To issue a Writ of Mandamus or appropriate Writ or direction for imposing cost on the respondent and restraining respondent for drawing the minutes of meeting by unfair means without having no objection of members of TVC –II ;

(IV) To issue a writ of mandamus or appropriate writ or direction or order directing the respondent to comply the order dated 10.11.2021 passed in Writ Petition No12605/2021 as well as order dated 16.09.2022 passed in Writ Petition No 1245/2022 in view of Hon'ble Supreme Court Order dated 05.05.2006 passed in I.A 394 in I.A. No 356 in Writ Petition No 1699 /1987 in the matter of :- Sudhiri Madan VS MCD;

(V) To Issue a Writ of Mandamus or appropriate Writ or direction or order or order for implementation of clause 2.1.12 of the Govt. of NCTD Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme - 2009 for removing vendors and squatters from their places of squatting;

(VI) To issue a writ of mandamus or appropriate writ or direction or order directing the respondent to Re – Convene the meeting of the TVC II to take decision as per the reference made by this Hon'ble Court in its order dated 23.05.2023 in contempt case No 714/2023 following section 23 of Street Vendors Act & Clause (iii) of Rule 20 of Street Vendors Rule 2017;"

2. The petitioners pray that the respondents be directed to comply with the Scheme of MCD For Squatters/Hawkers-2007 [hereafter '**the 2007 Scheme**'], in view of the statement made by the respondents before this Court on 11.01.2024 in ***Hawkers Surksha Foundation All India (Regd.) v. New-Delhi Municipal Council & Ors.: W.P.(C)16468/2023.***

3. The said relief cannot be granted. Undisputedly, the said scheme is not operative. The Street Vendor (Protection of Livelihood and Regulation of Street Vendors) Act, 2014 (hereafter '**the Act**') came into force on 01.05.2014 and a vending plan under Section 21 of the Act is required to be framed. However, in ***Hawkers Surksha Foundation All India (Regd.)***



(*supra*), this Court – following the decision of the Co-ordinate Bench of this Court in ***Vyapari Kalyan Mandal Main Pushpa & Anr v. South Delhi Municipal Corporation & Ors: 2017 SCC OnLine Del 8962*** – held that the areas declared as ‘non-vending zones’ would continue to be operative till a new vending plan is framed. The same does not imply that all other terms of the Scheme of 2007 are also required to be implemented.

4. It is also clarified that the non-vending zones, as declared in the Scheme of 2007, would continue to operate only till a new vending plan is framed in accordance with Section 21 of the Act.

5. The petitioners’ prayer that the declaration as to non-vending zone is required to be quashed also cannot be acceded to. The question whether the areas declared as non-vending zones were required to be implemented till a fresh plan is made was considered by a Co-ordinate Bench of this Court in ***Vyapari Kalyan Mandal Main Pushpa & Anr v. South Delhi Municipal Corporation & Ors: 2017 SCC OnLine Del 8962***. It was held in the said decision that earlier declarations made regarding no-vending zone and no-hawking zones in the Scheme of 2007 would prevail till a fresh scheme is framed. The relevant extract of the said decision is set out below:

“47. As per the Act, the declaration of no-vending zone is to be carried out by the Plan for Street Vending to be prepared by the local authority in consultation with the Town Vending Committee [Section 21 read with the First Schedule]. At the same time, Clause 3(e) of the First Schedule provides that till the completion of survey and formulation of the plan, no zone shall be declared as a no-vending zone. This clause merely prohibits any further declaration of no-vending zones and does not nullify the existing demarcation by the municipal authorities. On the contrary, it tacitly recognises that certain areas might



have already been declared as no-vending zones.

48. Accordingly, we also subscribe to the view taken by the coordinate bench of this Court *Hawkers Adhikar Suraksha Samiti* (Supra) in its order dated 05.10.2016 that as an interim measure, the non-squatting zones declared under the old schemes shall continue to be non-squatting zones for the time being. Hence, the protection of Section 3(3) shall not extend to vendors in no-vending zones.”

6. The petitioners’ contention that minutes of meeting should not be drawn up by unfair means, is not contested. It is expected that the minutes of all meetings would be drawn up fairly. However, we find no foundation for issuing any such direction in this regard.

7. In addition, the petitioners also seek directions that earlier orders be complied with. No direction regarding earlier orders is required to be passed as in any event, the orders passed by the Court are required to be implemented.

8. In so far as the prayer that the meeting of Town Vending Committee-II be re-convened is concerned, it is noted that a survey is being undertaken by the Town Vending Committee and after the survey is completed, a fresh Town Vending Committee would be constituted. It is expected that the entire exercise would be completed expeditiously.

9. The petition is disposed of in the aforesaid terms. Pending applications also stand disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

JANUARY 30, 2024/r