



\$~70 to 72 & 74 to 76

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 166/2017 CM APPL. 16913/2019 CM APPL. 1548/2021 CM
APPL. 8197/2021
BALESWARPetitioner

versus

NEW DELHI MUNICIPAL COUNCIL & ANR.Respondents

71

+ W.P.(C) 168/2017 CM APPL. 16935/2019 CM APPL. 1570/2021 CM
APPL. 12316/2021
VIPIN KUMAR GUPTAPetitioner

versus

NEW DELHI MUNICIPAL COUNCIL & ANR.Respondents

72

+ W.P.(C) 179/2017 CM APPL. 16947/2019 CM APPL. 8176/2021 CM
APPL. 8177/2021 CM APPL. 8178/2021
MAHESH CHANDPetitioner

versus

NEW DELHI MUNICIPAL COUNCIL & ANR.Respondents

74

+ W.P.(C) 174/2017 CM APPL. 16942/2019 CM APPL. 16943/2019
MOHD. ISMAILPetitioner

versus

NEW DELHI MUNICIPAL COUNCIL & ANR.Respondents

75

+ W.P.(C) 176/2017 CM APPL. 16946/2019 CM APPL. 1544/2021
MOHD. NAEEM KHANPetitioner

versus

NEW DELHI MUNICIPAL COUNCIL & ANR.Respondents

76

+ W.P.(C) 186/2017 CM APPL. 16922/2019 CM APPL. 1953/2021
RAGHUBIRPetitioner



versus

NEW DELHI MUNICIPAL COUNCIL AND ANRRespondents

Present: Ms Aastha Dhawan, Advocate for petitioner in Item nos.70 to 72 and 74 to 76.
Mr Sriharsha Peechara, Standing Counsel for NDMC with Ms Harshita Gupta, Mr Akshat Kulshreshtha and Mr Shubham Mishra, Advocates in Item nos. 70 to 72, 74 to 76.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

10.09.2024

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1. The present petitions have been filed by the individuals who claimed to have been carrying on vending activities in the vicinity of Palika Bazar, Connaught Place, New Delhi and were removed by the New Delhi Municipal Council (hereafter *the NDMC*) on and around 05.10.2016 as the said area of inner circle and outer circle of Connaught Place (Rajiv Chowk and Indira Chowk) were declared as no-vending and no-hawking zones under the Scheme which was prepared in the year 2007 and enforced.
2. The petitioners have filed the present petitions seeking directions that they be restored to their original vending sites on the ground that after enactment of the Street Vendors (Protection of Livelihood And Regulation of Street Vending) Act, 2014 (hereafter *the Act*), no area could be declared as no-vending or no-hawking Zone until a vending plan in terms of Section 21 of the Act is prepared.
3. The petitioners rely on para 3(e) of the First Schedule of the Act which reads as under: -



“(3) Declaration of no-vending zone shall be carried out by the plan for street vending, subject to the following principles, namely:-

(e) till such time as the survey has not been carried out and the plan for street vending has not been formulated, no zone shall be declared as a no-vending zone.”

4. The said controversy is no longer *res integra*. In ***Vyapari Kalyan Mandal Main Pushpa & Anr. v. South Delhi Municipal Corporation & Ors.***, 2017 SCC OnLine Del 8962, a Co-ordinate bench of this Court has held that no-vending or no-hawking Zones which were in existence prior to the Act coming into force, would continue to be operative till a survey is conducted and a fresh vending plan is prepared in accordance with Section 21 of the Act. In this view, the petitioners claim that they are entitled to carry on vending activities in the area, which are declared as no-vending and no-hawking zones, cannot be acceded to.

5. Having stated the above it is also noticed that the names of the petitioners find mention in the list of 628 street vendors who were found eligible for allotment of vending sites in the year 2012. Although draw had taken place for the allotment of 386 vending sites amongst 628 eligible street vendors, however, the same was stayed and the said process was abandoned. The petitioners claim that they continued to vend from the area around Palika Bazar, which falls in the no-vending and no-hawking zones. It is the stated stand of the NDMC that persons whose names are included in the list, may continue on a temporary basis to carry on their vending activities within the zones where such activities are permitted.

6. Concededly, the petitioners on a temporary basis are entitled to carry on their street vending activities in the areas where such activities are



permitted subject to the holding capacity of such areas.

7. Undisputedly most of the areas where markets are situated within the jurisdiction of the NDMC are saturated and number of persons claiming to carry on vending activities in such areas including areas of Sarojini Nagar, Bapu Market and Janpath exceed the capacity.

8. Notwithstanding the above, the NDMC is required to indicate some areas where the petitioners can carry on their *bona fide* activities. The petitioners have identified some areas opposite Mohan Singh Place where such activities are permissible and have also annexed the photographs of the same.

9. In view of the above, we consider it apposite to dispose of these petitions by directing the NDMC to consider the petitioners' request for being accommodated at Mohan Singh Place to the extent of the spaces available and allocate other areas for the remaining petitioners.

10. It is clarified that these orders have been passed in peculiar circumstances of these cases considering that the petitioners had approached this Court in the year 2017 and their names find mention in the list of 628 vendors, who were found eligible for allotment of a *tehbazari* license.

11. Mr. Peechara, learned counsel for the NDMC expressed an apprehension that if the petitioners are accommodated at Mohan Singh Place, there would be a large number of street vendors who would seek parity with them.

12. Undisputedly, only a limited number of persons can be accommodated in the Mohan Singh Place. It is thus clarified that in the event, if we find that other street vendors who are entitled to be allocated in the areas within the jurisdiction of the NDMC for carrying on vending



activities, NDMC would have to accommodate them in some other location.

13. The NDMC shall take a decision in regard to the petitioners and inform them the same within a period of two weeks from date.

14. These petitions are disposed of in the aforesaid terms. Pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 10, 2024

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