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

+ W.P.(C) 2644/2024

RAVI GUPTA

..... Petitioner

Through: Mr.Aditya, Mr.Kailash Kr Jha,
Mr.Anjani Kr Mishra, Advocates.

versus

COMMISSIONER OF POLICE AND ORS

..... Respondents

Through: Mr.Nikhil Palli, Advocate for R2 and
R3/MCD.

(41)

+ W.P.(C) 2652/2024

KAVITA

..... Petitioner

Through: Mr.Aditya, Mr.Kailash Kr Jha,
Mr.Anjani Kr Mishra, Advocates.

versus

COMMISSIONER OF POLICE AND ORS

..... Respondents

Through: Mr.Mohit Bhardwaj, Advocate for
R1, R4 and R5.

Ms.Radhika Biswajit Dubey, ASC
and Ms.Ananya Sikri, Advocate for
MCD/R2.

(42)

+ W.P.(C) 2669/2024

NAYAB SHAH

..... Petitioner

Through: Mr.Aditya, Mr.Kailash Kr Jha,
Mr.Anjani Kr Mishra, Advocates.

versus

COMMISSIONER OF POLICE AND ORS

..... Respondents

Through: Mr.Divyam Nandrajog, PC and
Ms.Surbhi Soni, Advocate for R1, R4
and R5/GNCTD.

Ms.Shilpa Ohri, ASC for R2/MCD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

22.02.2024

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1. The petitioners are street vendors and have filed the above petitions *inter alia*, praying that they be not disturbed in carrying on their vending activities in various locations at Sangam Vihar, Central Zone, Ward S-85, New Delhi.
2. The petitioners have been issued the Certificate of Vending (COV) by the Municipal Corporation of Delhi. They have prayed that their category as referred to in the COV be amended to *Stationary Vendors*.
3. The petitioners are essentially aggrieved that despite of having the requisite documents, the respondent authorities have removed them from their current vending locations.
4. The learned counsels appearing on behalf of the respondents point out that each of the petitioners had filed their respective writ petitions seeking similar reliefs. These petitions were disposed of by similarly worded orders passed by the Coordinate Bench of this Court. Illustratively, it is pointed out that W.P.(C) no.7448/2023 captioned *Rajendra Sahni v. Municipal Corporation of Delhi & Ors.*, which was filed by the petitioners in the present petitions, was disposed of by the judgment dated 26.05.2023.
5. The relevant extract of the said judgment reads as under:-

“1. The present writ petition under Article 226 of the Constitution of India, 1950, has been instituted on behalf of the petitioner, praying as follows:-

“Pass an Order directing the respondents to ensure that that the petitioner is allowed to peacefully vend on his vending site i.e., On the footpath, in front of MCD Park, Mata Mandir Road, New Friends Colony, Central Zone, Ward-S-89, Delhi without any hindrance being caused by any public official.

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

III. Pass an order directing the SHO, PS New Friends



Colony to ensure that the petitioner street vendor shall not be forcefully removed from his vending site.

IV. Pass an order directing the respondent MCD to correct the nomenclature in the column for vending type from others to stationary street vendor as detailed in the vending certificate issued to the petitioner.

V. 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 stationery street vendor.

VI. 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.”

6. 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, Mr. Rajendra Sahni has been issued a certificate of vending dated 06.11.2021, URI: 5384086, which is annexed as Annexure P-3, to the present writ petition.

7. In view of the foregoing, learned counsel appearing on behalf of the petitioner, categorically limits the relief in the present writ petition, to a direction to the Municipal Corporation of Delhi, to permit Mr. Rajendra Sahni to continue to vend within Central Zone, Ward-S-89, strictly and scrupulously in compliance with the terms and conditions of the said certificate of vending and in accordance with law.\

8. In view of the above, the present writ petition is partly allowed; and the Municipal Corporation of Delhi is directed to permit Mr. Rajendra Sahni, to vend within Central Zone, Ward-S-89, subject to the terms and conditions of the said certificate of vending dated 06.11.2021, without any let or hindrance.”

6. It is apparent from the above that the petitioners' grievance regarding continuing vending at their concerned designated area was considered by the



Court. The Court noted that this Court had in terms of the mandate of Clauses 3 and 4 of the Terms and Conditions of the COV allowed the petitioner to continue vending as the TVC had issued COVs to protect the vendors and thus, permitted the petitioner to continue vending in terms of the Clauses mentioned in the Terms and Conditions of the COV.

7. The petitioners have also sought directions that they be categorised as Stationary Vendors, we are not persuaded to accept the same. Admittedly, no specific site has been allotted to the petitioners. The petitioners are also not vending from a permanent or semi-permanent structure. Thus, till any other decision is taken by the TVC, the petitioners are required to be considered as Mobile Vendors.

8. Having stated the above, we are of the view that the petitioners have highlighted a serious issue that requires consideration by the concerned authorities. Calling upon the Mobile Vendors to move or relocate would inevitably put a higher pressure on the streets, in addition to causing substantial inconvenience to the vendors.

9. Section 6(1) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 (hereafter *the Act*) expressly provides that vendors be classified under three categories:-

- a. Stationary vendor;
- b. Mobile vendor; or
- c. Any other category as may be specified under the Scheme.

10. Undisputedly, the COV is required to be in terms of the Act and thus, must clearly classify the category of the street vendors.

11. It is also noted that two of the petitioners [W.P. (C) no.2652/2024 and W.P.(C) no.2644/2024] are engaged in vending “Food/Snacks with gas



cylinders/fire”. Plainly, it would be difficult for such street vendors to move and relocate every thirty minutes, as mentioned in Clause 11 of the Terms and Conditions of the COV.

12. As noted above, the petitioners have already filed representations with the TVC. It would be necessary for the TVC to take an appropriate decision in this regard till the survey is completed and a vending plan is put in place.

13. Accordingly, we dispose of the present petitions by directing that the respondents shall not obstruct or disturb the petitioners from carrying on their vending activities provided the same are carried on in accordance with the terms and conditions of the COV. The concerned TVC to consider the representations moved by the petitioners and take an informed decision. Needless to state that since the said decision would be in the nature of a policy decision, it would be applicable to all the street vendors. The denial of relief as sought for by the petitioners, by this Court would not preclude the TVC from considering the same.

14. The petitions stand disposed of in the aforesaid terms.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

FEBRUARY 22, 2024

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