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

Date of Decision: 27.05.2024

+ CONT.CAS(C) 501/2024 & CM APPL. 31846/2024

RAMESH KUMAR

..... Petitioner

Through: Mr. Rajul Shrivastav, Advocate,
DHCLSC.

(M): 9891860220

Email: advrajul@gmail.com

versus

SHRI GYANESH BHARTI & ORS.

..... Respondents

Through: Mr. Tushar Sannu, Standing counsel
with Mr. Manoviraj Singh, Advocate
for respondent/MCD.

(M): 9773725401

Email: adv.tusharsannu@gmail.com

Ms Hetu Arora Sethi, ASC for
GNCTD with Mr. Nirmal Prasad,
Advocate.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL)

CM APPL. 31846/2024

1. The present application has been filed on behalf of the petitioner to bring on record subsequent events and developments.
2. Learned counsel appearing for the petitioner submits that on 17th February, 2024, without any prior intimation, the officials of the Municipal Corporation of Delhi ("MCD") approached the stall of the petitioner, and directed him to shut his stall on grounds of not having the requisite permits. He submits that the stall of the petitioner was seized, and raw materials,



including, total of around 100 Kgs of Chicken (around 50-55 live chickens), as well as 33 Kgs of Fish, were seized from the stall of the petitioner. It is submitted that the aforesaid goods of the petitioner were subsequently auctioned off, and proceeds thereof, have not been given to the petitioner herein.

3. Per contra, learned standing counsel appearing for the respondent/MCD submits that since the petitioner was running the stall and selling fish and chicken without requisite licence, the action taken by the MCD was justified. He further submits that after confiscation of the goods of the petitioner, the same were auctioned by the MCD, in terms of the procedure adopted by the MCD. It is submitted that since in the present case, the petitioner was carrying out an illegal activity, i.e., he was selling chicken, fish, etc. without the requisite licence, therefore, the amount which has been obtained after auction, cannot be given to the petitioner.

4. The petitioner, on the other hand, submits that he is entitled to the aforesaid amount.

5. Considering the submissions made before this Court, it is manifest that the dispute now raised by the petitioner, is a separate cause of action, and cannot be adjudicated in the contempt proceedings.

6. Accordingly, liberty is granted to the petitioner to seek his remedy in accordance with law, to seek his prayer for claiming the amount that has been obtained by the MCD after auctioning of the articles seized from the stall of the petitioner.

7. With the aforesaid directions, the present application is disposed of.

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8. The present contempt petition has been filed alleging willful disobedience of the order dated 19th January, 2024 passed by the Division Bench of this Court in *W.P. (C) No. 15136/2023*.

9. The present petition was premised on the ground that by the aforesaid order, directions had been issued by the Division Bench to the Town Vending Committee (“TVC”) to issue a Certificate of Vending (“COV”) to the petitioner and had granted liberty to the petitioner to apply for the same.

10. In the present case, the grievance of the petitioner is that even after applying for the COV, and submitting the documents along with the order of this Court for obtaining the COV, the respondents have not acted upon the directions of the Division Bench.

11. When the present matter was listed for hearing on 28th March, 2024, learned counsel appearing for the MCD has submitted that the petitioner had not followed the proper procedure for applying for the COV. Thus, directions had been issued by this Court to the petitioner to follow the proper procedure, and apply for the issuance of COV.

12. Today, learned Standing Counsel appearing for the MCD, submits that pursuant to the directions passed by this Court, the petitioner has applied for issuance of COV in his favour. He further submits that the application of the petitioner has been filed for fast food items for movable vending. He, thus, submits that the application of the petitioner for issuance of COV has been duly registered, and the petitioner has been given a registration number against his application. Learned counsel for the MCD has handed over documents in this regard, which are taken on record.

13. Thus, it is submitted that the directions passed by the Division Bench shall be complied with, as survey in the area is still going on, and it is only



upon completion of the survey in terms of the Street Vendors Act and the Scheme, the COV shall be issued to the petitioner.

14. This Court notes that vide order dated 19th January, 2024 in W.P. (C) No. 15136/2023, the Division Bench had issued directions in the following manner:-

“1. The petitioner has filed the present petition praying as under:

“(a) To issue a writ in the nature of mandamus and/ or directions/orders to the Respondents to form or amend for disposal of application dated 19.11.2015 within specific time and for issuance of Tehbazari Licenses.

(b) To issue a writ in the nature of mandamus and/ or directions/ orders to Respondent no.1 directing them to issue Tehbazari License in favor of the Petitioner.”

2. The petitioner is a physically disabled person and had applied for Tehbazari license on 19.11.2015 under the MCD Street Hawker Scheme, 2007, however, no action has been taken in respect of his application.

3. In the aforesaid context, the petitioner prays that the respondents be directed to issue a Tehbazari license.

4. Learned counsel for the respondent no.1/MCD submits that a survey will be undertaken shortly for the purpose of implementing the 2019 Scheme. He states that the petitioner may also participate in the said survey and submit all documents. He assures this Court that the Town Vending Committee (TVC) shall consider the same.

5. It is apparent that the petitioner is carrying on vending activities. The photographs placed on record indicate that the petitioner has been selling his wares from a motorised carriage vehicle. The petitioner is not vending from a fixed site. The TVC has issued certificates of vending to various street vendors and permitted the said street vendors to carry on mobile vending. Prima facie, the Petitioner is entitled to do so.

6. In these circumstances, we consider it apposite to direct the TVC to issue a certificate of vending to the petitioner. The petitioner is at liberty to apply for the same.

7. Accordingly, the petition is disposed of in the aforesaid observations”

(Emphasis Supplied)



15. Perusal of the aforesaid order, shows that the Division Bench had directed the TVC to issue COV to the petitioner, and he was held entitled for issuance of the COV.

16. This Court notes that the application of the petitioner for issuance of COV already stands registered. This Court further notes that as per The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (“Street Vendors Act”) and Government of National Capital Territory of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019 (“Street Vendors Scheme”), the COV is to be issued by the TVC, after completion of the survey of the area.

17. Thus, it is manifest that the COV shall be issued to the petitioner only upon following the due procedure as envisaged under the Street Vendors Act as well as the Scheme, which entails completion of survey before issuance of the COV to any street vendor.

18. This Court takes note of the submission made by learned counsel appearing for the MCD that the survey is still underway, and that the same shall be completed expeditiously.

19. In view of the aforesaid, it is directed that the COV shall be issued by the TVC to the petitioner, after completion of the survey, in accordance with the procedure, as laid down in the Street Vendors Act and the Scheme.

20. Accordingly, no further orders are required to be passed in the present petition.

21. However, liberty is granted to the petitioner to revive the present petition, in case the grievance of the petitioner still survives.

22. With the aforesaid directions, the present petition is disposed of.



23. The next date of hearing of 20th August, 2024, stands cancelled.

MAY 27, 2024/c

MINI PUSHKARNA, J

Signature Not Verified

Digitally Signed By: CHARU
CHAUDHARY
Signing Date: 07.06.2024
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