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

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Date of Decision : 16.04.2024+ **W.P.(C) 5419/2024 & CM APPL. 22363-64/2024**

BALBIR SINGH

..... Petitioner

Through: Mr. Ankit Singh Sinsinwar, Adv. with
Mr. Ashish Tiwari and Mr. Pankaj
Kumar, Advs.

versus

MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Mr. Virender Singh, Adv. with Ms.
Puja Kalra and Mr. Vinay, Advs.**CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MS. JUSTICE TARA VITASTA GANJU****VIBHU BAKHRU, J. (Oral)****CM APPL. 22364/2024[for Exemption]**

1. Exemption is allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 5419/2024 & CM APPL. 22363/2024 [for Interim relief]

3. The petitioner has filed the present petition, *inter alia*, impugning the order dated 26.03.2024 passed by the respondent in compliance with the order dated 24.11.2023 passed by this Court in CONT.CAS(C) No.335/2024 in W.P.(C) 10361/2023.
4. The petitioner had filed the aforementioned writ petition being



W.P(C) 10361/2023 captioned **Balbir Singh v. Municipal Corporation of Delhi**, which was disposed of by an order dated 24.11.2023.

5. The petitioner was evicted from the *Tehbazari* site occupied by him which was described as Stall no.26, located at Recruitment office, Red Fort, Delhi (hereafter *the Tehbazari site*) and had not been allocated any alternate site. The petitioner had made a representation in this regard to the respondent, Municipal Corporation of Delhi (hereafter *the MCD*) seeking an alternate site. In terms of the order dated 24.11.2023, this Court had directed the MCD to consider the petitioner's representation along with the document after affording the petitioner an opportunity to be heard.

6. The said order was not complied with and the petitioner filed a contempt petition. However, thereafter the MCD heard the petitioner and disposed of the representation in terms of the impugned order.

7. It is the petitioner's case that he had purchased the Tehbazari site from one Mr. Salimuddin in the year 1988 and has been carrying on the vending activities from the said site since then. The petitioner has also applied for mutation of the said site in his favour, however, the same was not granted.

8. It is the petitioner's case that in terms of the prevalent policy, all persons who purchased tehbazari sites from original allottees prior to the year 1993 are entitled to mutation of the respective sites in their names. The petitioner claims that he is entitled to the benefits of the said policy and, therefore, the Tehbazari site allotted to the Salimuddin is required to be mutated in his favour.



9. It is material to note that the petitioner was evicted from the said site in the year 2000 and had filed a petition being C.W.P. No.3135/2000 captioned ***Om Prakash Choudhary & Ors v. MCD***, along with three other petitioners before this Court. The said petition was disposed of by this Court by an order dated 02.09.2002, whereby this court had directed the petitioners to apply to the MCD for Tehbazari rights within a period of two weeks from the said date. This Court further directed the MCD to consider the applications in terms of its scheme for allotment including the circular dated 09.09.1999 and to take a decision within a period of eight weeks thereafter. The operative part of the said order is set out below:

“In view of aforesaid, I consider it appropriate to direct the petitioners to apply to the respondent-Corporation for tehbazari rights within a period of two weeks from today. Respondent-Corporation will consider the applications in terms of its scheme for such allotment including circular dated 9.9.1999 and take a decision on the same within a period of eight weeks thereafter.”

10. The petitioner states that, although, he had applied to the MCD for allotment of a tehbazari site in terms of the order dated 02.09.2002, but the MCD had not complied with the said directions. Learned counsel appearing for the petitioner, however, concedes that the petitioner did not raise any grievance in this regard for the last one decade as he states that the petitioner was peacefully vending from the site.

11. Thus, the question whether the petitioner is entitled for mutation/allotment of the tehbazari site, on account of having purchased the same from Salimuddin, has not been determined as yet.



12. In the meanwhile, the tehbazari sites at Recruitment office, Red Fort, Delhi were demolished in the year 2012 on account of Delhi Metro Rail Project.

13. In view of the above, the question of mutating the site allotted to Salimuddin in the name of the petitioner does not arise.

14. Having stated above, it is necessary to observe that the petitioner may be entitled to seek allotment of an alternate tehbazari site on the ground that the site purchased by petitioner has been demolished and he is the successor-in-interest of Salimuddin.

15. However, the question whether the petitioner is so entitled cannot be determined by the TVC or MCD at this stage. The allotment of sites can now be considered in accordance with a vending plan to be prepared under Section 21 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014, which has not been formulated as yet.

16. The impugned order indicates that the decision regarding shifting and allotment of tehbazari/hawking sites would fall within the scope of functions to be performed by Town Vending Committee-II (TVC-II), which would be constituted with the participation of street vendors.

17. In terms of Section 21 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014, the MCD is required to prepare a vending plan in consultation with the Town Vending Committee. The question of allocating fixed sites to various street vendors can be considered only by the preparation of the vending plan.



18. In view of the above, we find no infirmity with the decision of the MCD that the petitioner's entitlement to an allotment of a Tehbazari site be considered after constitution of the TVC-II. It is important to note that the petitioner's representation has not been disposed of but kept pending for consideration by the TVC-II as and when constituted.

19. In the aforesaid circumstances, we consider it apposite to dispose of the present petition by directing that the petitioner's representation be considered by the TVC-II as and when constituted.

20. In the meanwhile, the petitioner is at liberty to participate in the survey, which this Court is informed will be conducted shortly. The petitioner would also be entitled to furnish all documents and material to establish that he was carrying on vending activities and had acquired the Tehbazari site from Salimuddin. Needless to state that the same would be considered by the Town Vending Committee (TVC-II) at an appropriate stage.

21. The petition is disposed of in the aforesaid terms. Pending application also stands disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

APRIL 16, 2024

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Click here to check corrigendum, if any