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

\+ W.P.(C) 8294/2021

MAHESH KUMAR YADAV .....Petitioner

Through: Petitioner in person.

versus

THE CHAIRPERSON - NDMC/TVC & ORS. .....Respondents

Through: Mr. Sriharsha Peechara, SC with Mr. Akshat Kulshreshtha & Mr. D.S. Bhanu, Advs. for Resp./ NDMC.

Mr. Rishikesh Kumar, ASC with Ms. Sheenu Priya, Mr. Vikas Saini, Mr. Atik Gill, Mr. Sudhir Kumar Shukla & Mr. Sudhir, Advs. for Resp./ GNCTD.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE DHARMESH SHARMA

O R D E R

% **05.12.2024**

1. This writ petition has been preferred seeking the following reliefs:

> "a. Admit the writ petition against the respondents.
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> b. direct the respondents to issue required LOR to the petitioners as per law and if required by adopting/ incorporating additional criteria in this regard as per clause 5 of PMSVNidhi Scheme because admittedly all petitioners are existing vendors and may not be denied of beneficial Scheme merely on whim and fancy of the official of NDMC.
>
> c. pass any other order/ relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. The petitioner claims to have been carrying on street vending activities since 1998 at Janpath Market, near Indian Oil Building,

which is asserted to be a vending zone as identified by the **New Delhi Municipal Council**[1].

3. The present writ petition, undisputedly, is not the first foray of the writ petitioner before this Court. In the course of pursuing his legal remedies and seeking to assert the right to vend as well as claiming other benefits, the writ petitioner has approached this Court earlier by filing the following writ petitions:

(i) WP(C) No. 5958/2012

(ii) WP(C) No. 11415/2016

(iii) W.P.(C) No. 6790/2022

4. The cause for approaching the Court by way of the instant writ petition evidently appears to have been the financial institution requiring the writ petitioner to produce a **Letter Of Recommendation**[2] for the purposes of availing benefits under the **PM Street Vendor's AtmaNirbhar Nidhi (PMSVANidhi) Scheme**[3].

5. For appreciating the background pertaining to the aforenoted central support scheme, it becomes apposite to note that the scheme for financial assistance is directed towards vendors and hawkers and whose livelihood came to be adversely impacted on account of the pandemic. The PMSVANidhi Scheme envisages the disbursement of a working capital loan of upto INR 10,000/- and to incentivise regular repayment in connection therewith. The eligibility criteria is prescribed in terms of clause 4 of that scheme and which is reproduced hereinbelow:

> "**4. Eligibility Criteria of Beneficiaries**
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> The Scheme is available to all street vendors engaged in vending in

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[1] NDMC
[2] LOR
[3] PMSVANidhi Scheme

urban areas as on or before March 24, 2020. The eligible vendors will be identified as per following criteria:

(i) Street vendors in possession of Certificate of Vending/ Identity Card issued by Urban Local Bodies (ULBs).

(ii) The vendors, who have been identified in the survey but have not been issued Certificate of Vending/ Identity Card:

Provisional Certificate of Vending would be generated for such vendors through an IT based platform. ULBs are encouraged to issue such vendors the permanent Certificate of Vending and identification Card immediately and positively within a period of one month.

(iii) Street Vendors, left out of the ULB-led identification survey or who have started vending after completion of the survey and have been issued Letter of Recommendation (LoR) to that effect by the ULB/ Town Vending Committee (TVC); and

(iv) The vendors of surrounding development/ peri-urban/ rural areas vending in t he geographical limits of the ULBs and have been issued Letter of Recommendation (LoR) to that effect by the ULB/ TVC."

6. It is the case of the writ petitioner that since he had been regularly vending right from 1998, he was entitled to the benefits flowing from that scheme and which is being denied only on account of the NDMC refusing to issue a LOR.

7. The petitioner, who appears in person, essentially relies upon clause 4(ii) of the PMSVANidhi Scheme and contends that since he had been duly identified in the survey which had been conducted by the NDMC itself, he would be entitled to the grant of the LOR. In support of the aforenoted submissions, the petitioner invited our attention to a form for survey which appears at pdf page 51 of our digital record.

8. The NDMC has disclosed that in the year 2011, this Court had provided interim relief to various petitioners and in this context, an affidavit had been filed by the answering respondent in the matter of

Gainda Ram & Ors. v. MCD & Ors.[4] for draw of lots for allotment of sites to those vendors having interim relief provided by this Court and for those who had approached this Court for relief against removal. This list consisted of 628 persons, of which 349 persons were those in whose favour interim orders operated while the remaining 279 were those who had not been accorded any interim relief.

9. It was on the basis of the affidavit filed by the answering respondent that the Supreme Court had permitted the drawing of lots for allotment of the 386 vending spaces available at that point in time. Pursuant to the order dated 01 May 2012 passed by the Supreme Court, the draw of lots was held on 10 May 2012 for the allotment of tehbazari spaces to 386 out of the 628 persons. However and as a result of various petitions that came to be preferred before the Supreme Court by several street vendors challenging the action for draw of lots, the same was stayed by the Supreme Court vide its order dated 31 January 2013 and directions given to maintain status quo.

10. In the context of the present case and insofar as the stand of the NDMC is concerned, they have made the following pertinent disclosures. According to the said respondents, the petitioner was never identified in the survey which was conducted by them in 2018. It was their stand that although initially they were issuing LORs only to authorized vendors, pursuant to certain orders passed by this Court and more particularly on 08 February 2018, they expanded the reach of that certificate also to those who may have been mentioned in the 'found' category as per the list prepared by them. It is further asserted that although the NDMC did receive an application for grant of a LOR

[4] W.P.(C) 1699/1987

from the petitioner on its online portal, the same was not granted since the petitioner did not fulfil the criteria formulated and prescribed by the PMSVANidhi Scheme.

11. The principal issue which therefore arises for consideration is whether the petitioner stands surveyed and could be said to fall in the 'found' category. Although the document at pdf page 51 is asserted by the petitioner to be one which is liable to be read in evidence of him having been duly found and surveyed, we find that the said application is merely liable to be read as one seeking consideration for the grant of a declaration of the status of the applicant as being an existing vendor. The said document in any case cannot possibly be viewed as a certification by NDMC of the petitioner having been found in the 2018 survey to be vending on the asserted spot.

12. Of greater significance are the following disclosures which are made on affidavit by the petitioner himself. We refer to paragraph 3 of the rejoinder affidavit which has been filed in these proceedings and appears at pdf pages 140 and 141 of our digital record and reads as follows:

> "3. That the petitioner is a regular vendor from Janpath and has regular challans, applied in year 2007 under the Scheme for allotment of vending site and after fulfilling the eligibility criteria was found genuine vendor and therefore his name placed in the eligibility list prepared in year 2011 after proper verification and scrutiny of his claims of vending and therefore petitioner was protected under the common order 25.5.2011 of· this Hon'ble Court in Deepak Kumar case and order dated 15.7.2011 of the Hon'ble Apex Court in Gainda Ram case which is finally cumulated in Judgment dated 9.9.2013 of the Apex Court in Maharashtra Ekta case. Not only that even petitioner was got protected under order dated 4.12.2012 WP(c) No 5958/2012 of this Hon'ble Court in his own case and he was regularly doing his vending from his place of vending till 17.1.2016 and 17.2.2016 when he was removed illegally by the team of enforcement alongwith others in a common drive but latter on the NDMC allowed their own people to carry on vending and keep on harassing the petitioner only because he has

> courage to question the acts/deeds of NDMC through RTI on instigation of his rivals and even it is admitted case of the NDMC that petitioner was a regular vendor at Janpath which is evident from their own reply that petition was vending there and was removed from Janpath so the claim of the respondent that petitioner is not a vendor is totally false., the true copy of all relevant challans and other supporting documents are being filed herewith as **Annexure P-13- Colly."**

13. As per the conceded case of the writ petitioner, he was vending upto 17 January 2016 whereafter he was illegally removed by a team of enforcement officials. Certainly, and if the petitioner as per his own stand had been removed from the site in question in 2016, he could not have possibly been surveyed or placed in the 'found' category in 2018. From the further disclosures which are made by the NDMC and which have gone unrebutted, we also gather that the petitioner had also not been included in the original list of 628 street vendors.

14. Since the petitioner has failed to establish that his case could possibly be placed within the ambit of clause 4(ii) of the PMSVANidhi Scheme, we find no ground to grant the relief as prayed for.

15. The petition fails and shall stand dismissed.

YASHWANT VARMA, J

DHARMESH SHARMA, J

DECEMBER 5, 2024/kk