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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 15.07.2024

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W.P.(C) 7085/2024 and CM APPLs.29564-65/2024

JAWAHAR LAL & ORS.

.....Petitioners

Through: Mr. M.M. Israili, Mr. S.I. Israili and
Mr. Gaurav Raj Sharma, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.....Respondents

Through: Mr. Shivam Sachdeva, ASC for
MCD.Mr. Sanjeev Ralli, Sr. Adv. along
with Mr. Mohit Mudgal, Mr.
Chetanya Baweja, Mr. Ravikant
Yadav, Mr. Shubham Yadav, Mr.
Praful Nawani, Advs. for R-4.**CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE SACHIN DATTA****VIBHU BAKHRU, J. (Oral)**

1. The petitioners claim that they are street vendors and were carrying on their hawking/vending activities from Library Road, Azad Market, Delhi (hereafter *the given site*). They have filed the present petition, *inter alia*, praying as under:

“A. Allow the present petition and issue writ of Mandamus or any other appropriate writ, order to Respondents to Respondent No.1, 2, 3 & 4 that Library Road Azad Market, Delhi-110006 be not treated as a no hawking/vending zone till such vending/hawking zones are created by Respondent No. 1 and 2 for the street vendors /hawkers/squatters of Library Road, Azad Market, Delhi in terms of the order dated 09.09.2013 passed by Hon'ble Supreme Court in C.A. No. 4156-



4157/2002 and in accordance with S. 21 read with article 2 & 3 of first schedule read with S. 33 of the Street Vendors (Protection Of Livelihood And Regulation Of Street Vendors) Act 2014; AND

B. Issue Writ of Mandamus directing Respondent No. 1 and 2 to carry out a survey and registration of all existing street vendors at the Library Road, Azad Market, City SP Zone, Delhi in terms of the 2009 Policy of Street Vendors, Order dated 09.09.2013 passed by Hon'ble Supreme Court in C.A. No. 4156- 4157/2002 and S.3(1) of the Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Act.

C. Issue Writ of Mandamus directing Respondent No. 1 to 3 to not remove the Petitioners and their likes squatting from 06:00AM to 10:00Am at Library Road, Azad Market, Delhi till creation of demarcate vending / hawking zones at City SP Zone, Delhi and survey of existing street vendors at Library Road, Azad Market is completed in accordance with order dated 09.09.2013 passed by the Hon'ble Supreme Court in C.A. 4156- 4157/2002 and as per S. 3(3) of the Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Act 2014.”

2. The petitioners are essentially aggrieved on account of the actions of the respondents in not permitting them to carry on their vending/hawking activities from the given site being the Library Road, Azad Market, Delhi as the same has been declared as a ‘no-vending/no-hawking zone’.
3. In the aforesaid context, the petitioners claim that they be allowed to vend at the given site (Library Road, Azad Market, Delhi) and this Court to declare that the same should not be treated as a ‘no-hawking/no-vending zone’ by respondent nos.1 and 2.
4. The petitioners seek to rely upon an order dated 09.09.2013, passed by the Supreme Court in CA No.4156-4157/2002 [***Maharashtra Ekta Hawkers Union and Anr. Vs. Municipal Corporation, Greater Mumbai and Ors.***], in support of their contention that no area can be declared as a no-vending zone prior to preparation of the vending plan in terms of Section 21



of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter *the Street Vendors Act*).

5. The learned counsel for the petitioners also relies on a Circular dated 06.05.2014 (hereafter *the Circular*) issued by the Municipal Corporation of Delhi (MCD), whereby the aforesaid order dated 09.09.2013 passed by the Supreme Court was circulated to all the concerned officers requesting the concerned Dy. Commissioners not to take action against the vendors/hawkers operating under their respective jurisdictions, in violation of the aforementioned order¹ dated 09.09.2013 passed by the Supreme Court.

6. The petitioners, essentially, seek that till the vending plan is prepared in terms of Section 21 of the Street Vendors Act, the street vendors not be evicted or obstructed from carrying on hawking/vending activities in areas on account of the said areas being declared as a 'no-hawking/no-vending zone'.

7. The issue involved in this present petition is covered by an earlier decision of the Coordinate Bench of this Court in ***Vyapari Kalyan Mandal Main Pushpa & Anr. v. South Delhi Municipal Corporation & Others***². In the said case, the court had directed that the 'no-hawking/no-vending zones' which were declared prior to the Street Vendors Act coming into force will continue to be operated till a new vending plan is prepared under Section 21 of the Street Vendors Act and the concerned committee demarcates no vending zones.

¹ Maharashtra Ekta Hawkers Union and Anr. Vs. Municipal Corporation, Greater Mumbai and Ors: (2009) 17 SCC 151

² 2017 SCC OnLine Del 8962



8. Clause 3(e) of the First Schedule of the Street Vendors Act, provides that no zone would be declared as a ‘no-hawking/no-vending’ zone till the survey is completed and the vending plan is framed. The petitioners rely on the said provision in support of their case. In ***Vyapari Kalyan Mandal Main Pushpa & Anr. v. South Delhi Municipal Corporation & Others***², this Court held that Clause 3(e)³ of the First Schedule to the Street vendors Act does not militate against maintaining the extant no vending zones as ‘no-hawking/no-vending’ zones.

9. The decision in the case of ***Vyapari Kalyan Mandal Main Pushpa & Anr. v. South Delhi Municipal Corporation & Others***², was subsequently followed by this court in ***Veer Singh vs. The Chairman of NDMC & Others***⁴.

10. The contention that the decision in ***Vyapari Kalyan Mandal Main Pushpa & Anr. v. South Delhi Municipal Corporation & Others***² was rendered in disregard of the order dated 09.09.2013 passed by the Supreme Court and the Circular dated 06.05.2014 is erroneous.

11. In ***Vyapari Kalyan Mandal Main Pushpa & Anr. v. South Delhi Municipal Corporation & Others***², indicates that this court had considered the decision in ***Maharashtra Ekta Hawkers Union and Anr. v. Municipal Corporation, Greater Mumbai***⁵, which was passed prior to the enactment of the Street Vendors Act and the same coming into force.

12. It is also relevant to note that the petitioners had prior to filing the

³ (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 Neutral Citation No.:2024:DHC:641-DB



present petition filed a petition [W.P.(C) 9645/2021 captioned *Jawahar Lal and Ors. vs. Municipal Corporation of Delhi and Ors.*] seeking similar reliefs. The prayers in the said writ petition are set out below:

“In view of the facts and circumstances of the present case, it is therefore most respectfully prayed before this Hon’ble Court that this Hon’ble Court may most graciously be pleased to:-

A. Allow the present petition and issue writ of Mandamus or any other appropriate writ, order to Respondents to demarcate vending / hawking zones at City SP Zone, Delhi in accordance with order dated 09.09.2013 passed by Hon’ble Supreme Court of India in C.A. 4156-4157/2002 and in accordance with S.21 read with Art. 2 & 3 of First Schedule of the Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Act 2014; AND

B. Issue Writ of Mandamus directing Respondent No.1 and 2 to carry out a survey and registration of the existing street vendors at the Library Road, Azad Market, City SP Zone, Delhi in terms of the 2009 Policy of Street Vendors, Order dated 09.09.2013 passed by Hon’ble Supreme Court in C.A. No.4156-57/2002 and S.3(1) of the Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Act 2014; AND

C. Issue Writ of Mandamus directing Respondents to not remove the Petitioners and their likes squatting from 06:00 AM to 10:00 AM at Library Road, Azad Market, Delhi till creation of demarcate vending/hawking zones at City SP Zone, Delhi and survey of existing street vendors at Library Road, Azad Market is completed in accordance with order dated 09.09.2013 passed by the Hon’ble Supreme Court in C.A. 4156-4157/2002 and as per S.3(3) of the Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Act 2014; AND

D. Award costs in favour of the Petitioners and against the Respondent throughout; AND

E. Pass any other order or direction as this Hon’ble Court may deem fit

⁵ (2009) 17 SCC 151



and property in the facts and circumstances of the instant case.”

13. The said writ petition [W.P.(C) No.9645/2021] was disposed of by an order dated 20.07.2023. The said order records that after some arguments, the counsel for the petitioners had sought leave to withdraw the said petition with liberty to initiate appropriate proceedings in accordance with law. The petition was dismissed as withdrawn with the aforesaid liberty. Clearly, no liberty was granted to the petitioners to once again re-agitate the relief as sought for in the said petition by way of another writ petition.

14. In view of the above, the present petition is dismissed.

15. All pending applications also stand disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 15, 2024/cl