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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7894/2024

KULDEEP SINGH

..... Petitioner

Through: Mr. Aditya, Mr. Anjan Kumar Mishra
and Mr. Kailash Kr. Jha, Advs.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS

..... Respondents

Through: Advocate for R-1 (appearance not
given).
Mohd. Irsad, ASC (GNCTD) with
Ms. Nasreen, Mr. Kunal Raj, Advs.
for R-3,4 and 5.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

28.05.2024

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1. The present petition has been filed by the petitioner, *inter alia*, seeking the following reliefs:

“I. Pass an order directing the respondents to allow the petitioner street vendor to peacefully vend at his vending site i.e., In Front of Shop/Building No 38-E, Sagun, Near Spark Mall, Kamla Nagar, Keshav Puram Zone, Ward No.78-N, Delhi without any let or hindrance being caused by any public official.

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

III. Pass an order directing the SHO, PS Roop Nagar to ensure that the petitioner street vendor shall not be forcefully removed from his vending site.

IV. Pass an order directing the respondents to comply with the provisions of the Street Vendors Act, 2014 as well as the advisory issued by the Ministry of Housing and Urban Affairs on the suggestions of Hon’ble Parliamentary Standing Committee on Urban Development.”

2. The petitioner claims that he is engaged in vending activities of



selling Cloth and Handloom items, since 1990 from a designated spot in front of Shop/Building No. 38-E, Sagun, Near Spark Mall, Kamla Nagar, Ward No. 78-N, Keshav Puram Zone, Delhi.

3. The petitioner claims that on 03.02.2021, he had participated in the survey, as conducted by the Town Vending Committee (TVC) in terms of the Street Vendors (Protection of Livelihood And Regulation of Street Vending) Act, 2014 (hereafter *the Act*), and was issued a survey acknowledgment receipt bearing URI No. 663116 for vending in the Keshav Puram Zone, Ward-78-N. It is, however, contended that the petitioner has not yet been issued a Certificate of Vending (hereafter “COV”).

4. The learned counsel for the petitioner submits that for all practical purposes, it should be assumed that the petitioner is entitled to a COV as he has participated in the survey and a receipt evidencing the same has been issued to him.

5. The learned counsel for the petitioner also disputes the list of no vending areas as prepared by MCD. He also refers to Clause (3)(e) of the First Schedule to the Act that proscribes any zone from being declared as a no vending zone till such time as the survey has not been carried out and the plan for street vending has not been formulated. He contends that in terms of Section 33 of the Act, the provisions of the Act have an overriding effect. Therefore, no zone can be declared as a no vending zone by MCD.

6. According to the respondents, the said provisions are inapplicable as the petitioner has not been issued a COV as yet. It is stated that at the current stage, only interim COVs have been issued and the final COVs will be issued after the second TVC is constituted and a vending plan is prepared in terms of Section 21 of the Act. It is contended on behalf of MCD that it is



impossible to serve prior notice to street vendors such as the petitioner, as no fixed place for vending has been allocated to them.

7. The COVs issued by MCD to the unauthorised street vendors (street vendors who have not been allocated any *Tehbazari* site) are in the nature of interim COVs (as in the present case as well) and do not specify any fixed site for vending, but merely mention the zone. The Terms and Conditions annexed with the COV also specify that the street vendors are required not to carry on vending activities from a fixed place for more than 30 minutes or such time as may be fixed by the TVC.

8. This Court has examined the issue of declaration of any zone to be a no vending zone in several petitions including in W.P.(C) 3570/2024 captioned ***Prabhat Sharma v. Municipal Corporation of Delhi and Ors.***

The relevant extract is below:

10. Before proceeding further, it would be relevant to refer the Section 18 and 19 of the Act. The same are set out below:-

“18.(1) The local authority may, on the recommendations of the Town Vending Committee, declare a zone or part of it to be a no-vending zone for any public purpose and relocate the street vendors vending in that area, in such manner as may be specified in the scheme.

(2) The local authority shall evict such street vendor whose certificate of vending has been cancelled under section 10 or who does not have a certificate of vending and vends without such certificate, in such manner as may be specified in the scheme.

(3) No street vendor shall be relocated or evicted by the local authority from the place specified in the certificate of vending unless he has been given thirty days’ notice for the same in such manner as may be specified in the scheme.

(4) A street vendor shall be relocated or evicted by the local authority physically in such manner as may be specified in the scheme only after he had failed to vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice.



(5) Every street vendor who fails to relocate or vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice, shall be liable to pay for every day of such default, a penalty which may extend up to two hundred and fifty rupees, as may be determined by the local authority, but shall not be more than the value of goods seized.

19. (1) If the street vendor fails to vacate the place specified in the certificate of vending, after the lapse of the period specified in the notice given under sub-section (3) of section 18, the local authority, in addition to evicting the street vendor under section 18, may, if it deems necessary, seize the goods of such street vendor in such manner as may be specified in the scheme:

Provided that where any such seizure is carried out, a list of goods seized shall be prepared, as specified in the scheme, and a copy thereof, duly signed by the person authorised to seize the goods, shall be issued to the street vendor.

(2) The street vendor whose goods have been seized under sub-section (1) may, reclaim his goods in such manner, and after paying such fees, as may be specified in the scheme:

Provided that in case of non-perishable goods, the local authority shall release the goods within two working days of the claim being made by the street vendor, and in case of perishable goods the local authority shall release the goods on the same day of the claim being made by the street vendor.”

11. In terms of Section 18(1) of the Act, the local authority (MCD in this case) may on recommendations of the TVC declare any zone to be a ‘no-vending zone’. In such eventuality, the street vendors are required to be relocated from the said zone. However, in terms of Section 18(3) of the Act, no street vendor is to be evicted from the place specified in the COV unless he is given 30 days’ prior notice.

12. In the present case, these provisions have not been implemented as the COVs allocating fixed vending sites to unauthorised street vendors have not been issued. In fact, the petitioner has not been issued any COV as yet.

13. However, as far as the no-vending zone is concerned, the area declared as the no vending zone under the Scheme for street vendors in MCD in the year 2007 continues to be operative till such time as a vending plan is prepared in terms of Section 21 of the Act.”



9. In view of the above, we are of the view that the reliefs sought, in the petition cannot be granted. However, since the petitioner has already participated in the survey, the Town Vending Committee (TVC-II) shall consider all materials and documents as furnished by the petitioner for taking an informed decision.

10. We dispose of the present petition by directing the concerned TVC i.e., TVC-II to consider the representation moved by the petitioner and take an informed decision. Needless to add, the denial of the leave by this Court shall not preclude the TVC from granting relief to the petitioner.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MAY 28, 2024/r

Click here to check corrigendum, if any