



2024:DHC:7019-DB



\$~77&78

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

%

Date of Decision: 10.09.2024+ **W.P.(C) 12643/2021 & CM Nos.39770/2021, 46035/2021, 47293/2021, 17394/2022, 23639/2022, 26325/2022, 63195/2023, 20051/2024 & 45386/2024****ADARSH VIKLANG VIKASH SAMITI & ORS.Petitioners**

Through: Mr. N.K. Sahoo, Adv.
Mr. R.A. Shah, Mr. Salim Kujur, Mr. Ram Dev Bhagat, Mr. Dilip & Mr. Ramesh Chand, Advs. for P-6 to 9 & 12.
Ms. Tanya Agarwal, Mr. Kamlesh Kumar Mishra, Ms. Renu & Ms. Chandana, Advs. for P-13 along with P-13 in person.

Versus**NEW-DELHI MUNICIPAL COUNCIL AND ANR.....Respondents**

Through: Mr. Sri Harsha Peechara, Adv. for R-1.
Mr. Udit Malik & Mr. Vishal Chanda, Advs. for R-2.

AND+ **W.P.(C) 2877/2022 & 8318/2022****RAJU SHAHU & ORS.Petitioners**

Through: Mr. M.M. Kashyap, Adv.

Versus**NEW DELHI MUNICIPAL COUNCILRespondent**

Through: Mr. Sri Harsha Peechara, Adv.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE SACHIN DATTA****VIBHU BAKHRU, J. (Oral)**

1. Petitioner no.1 in W.P.(C) 12643/2021 is an association of persons who are physically disabled and has filed the present petition initially on behalf of other petitioners, who are stated to be its members. The petition was initially

Signature Not Verified

Digitally Signed
By:DUSHYANT
RAWAL



2024:DHC:7019-DB



filed by seventeen individuals other than petitioner no.1 association. Subsequently, three of the petitioners, being petitioner nos.3, 4 and 7 (namely Akhtar Singh, Joginder Saha and Raju Sahu) filed a separate petition being W.P.(C) No.2877/2022. These petitioners were deleted from the array of petitioners by an order dated 20.01.2022 in W.P.(C) No.12643/2021.

2. The learned counsel appearing for the petitioners in W.P.(C) No.12643/2021 filed the amended memo of parties not only deleting the three petitioners who have preferred a separate petition [being W.P.(C) No.2877/2022] but six other petitioners (being petitioner nos.9 to 12, 15 and 16 namely Ram Asre Shah, Salim Kujur, Ram Dev Bhagat, Dilip Heere, Ramesh Chand and Laxmi Devi) on the ground that the said petitioners are were represented by another counsel. Clearly, the said six petitioners are not required to be deleted from the array of parties in W.P.(C) No.12643/2021 and no such order permitting their deletion has been passed by this court. Consequently for the purpose of the present order, these persons are treated as petitioners in W.P.(C) No.12643/2021.

3. The petitioners are persons with disability and claim that have been carrying on vending activities in the vicinity of Palika Bazar, New Delhi. They have filed the present petitions seeking that directions be issued to the respondent, New Delhi Municipal Council (hereafter *NDMC*) to maintain *status quo ante* as on 11.10.2021 and to relocate them at vacant spaces from where they were removed.

4. The petitioners also seek that they be accorded preference in allocation of spaces on account of them being persons with disabilities.

5. The petitioners, essentially, seek that they be included in the exception as carved out by a Coordinate Bench of this Court in the order dated



2024:DHC:7019-DB



11.10.2021 passed in W.P.(C) No.11669/2021 captioned ***New Delhi Traders Association v. New Delhi Municipal Corporation & Others***. The said petition was preferred by an association of traders carrying on their business in the area of Connaught Place, New Delhi (that is, Rajiv Chowk & Indira Chowk). The said association sought for a direction to be issued to the NDMC to ensure that no illegal hawking / squatting / vending activities are carried out in the no hawking / no vending areas of Rajiv Chowk and Indira Chowk. Their grievance was that despite the said areas being declared as no hawking / no vending zones, a large number of street vendors continued to carry on their vending activities from the said areas, thereby impeding free movement of visitors and usurping public spaces. The petitioner in that case also produced photographs, which showed a large number of street vendors occupying the public spaces and pavements meant for pedestrian use. This Court found that the NDMC was not managing the aforesaid areas, which are under its jurisdiction and observed that NDMC had “....*completely surrendered and accepted the invasion by hawkers and vendors and they have put their hands up, accepting helplessness*”. This Court found that the NDMC’s approach is not acceptable and it is required to depute requisite number of officers/personnel to ensure that the said areas are maintained as no hawking / no squatting / no vending zones. Paragraph no. 14 of the said order is relevant. The same is set out below:

“14. We, therefore, issue a stern warning to both – the officers of the NDMC as well as to the Delhi Police who have jurisdiction over the Connaught Place area, i.e. Rajiv Chowk and Indira Chowk, to ensure strict compliance of not only their scheme approved by the Supreme Court, but also the orders passed by the Supreme Court and by this Court. There should be zero tolerance shown by them, and all hawkers, vendors – except the original 80 odd vendors – as stated by Mr. Peechara, should be removed bag and baggage. The rule of law has to prevail, and we cannot allow the city to be taken over by illegal



2024:DHC:7019-DB



encroachers/ vendors. Such failure on the part of the respondent authorities in discharging their duties very severely and adversely impacts the rights of the citizens of the city, including their right to life, which includes the right to a healthy and clean environment.”

6. In terms of the said order, the petitioners were removed from their vending sites as they were not authorized to carry on any vending activities from the aforementioned areas, which are declared no hawking / no vending zones. It is in the aforesaid background, the petitioners had approached the NDMC for permission on compassionate grounds. Although, no vending license was issued to the petitioners, apparently, the NDMC took a decision to permit the petitioners to vend in the areas of Rajiv Chowk and Indira Chowk considering that they suffered from physical disabilities.

7. Mr. Peechara, learned counsel appearing for the NDMC states that the said decision was taken purely on humanitarian grounds and as an interim measure.

8. It is noted that in another case instituted in this Court being W.P.(C) No.11493/2016 captioned ***Vaiso Jain @ Baisho Jain v. New Delhi Municipal Council & Anr.***, Mr. Peechara, learned counsel appearing for the NDMC had made a statement that only *tehbazari* holders and Thareja Committee verified persons are allowed to squat in the no vending / no squatting zones of Connaught Place (Rajiv Chowk & Indira Chowk). However, in addition to the aforesaid, approximately fifteen physically disabled persons were also allowed to vend from the said areas. This statement was recorded in the order dated 22.02.2018 in W.P.(C) No.11493/2016.

9. Mr. Peechara states, on instructions, that although the petitioners were not authorized to vend from no hawking / no squatting zones, the NDMC is



2024:DHC:7019-DB



ready to stand by its decision to permit them to carry on their vending activities from the said areas purely on temporary basis. He also clarifies that apart from the petitioners, the NDMC had not permitted any other persons other than the license holders to vend from the areas of Connaught Place (Rajiv Chowk & Indira Chowk). He earnestly contends that although the petitioners are not entitled to vend from the said zones but the NDMC having taken the said decision, is not resiling from the same. He further clarifies that this arrangement has been made purely on temporary basis.

10. In view of the above, we consider it apposite to dispose of these petitions by directing that the petitioners may continue to carry on their vending activities from the sites at Rajiv Chowk and Indira Chowk on temporary basis. We are conscious that no directions can be issued to permit street vendors from carrying on their vending activities contrary to law. However, since the NDMC has taken a decision favourable to the petitioners in W.P.(C) No.11493/2016 and is abiding by the same, we consider it apposite not to interfere with the said decision of the NDMC. We clarify that the present order is premised solely on the NDMC's decision to permit the petitioners on humanitarian grounds at the material time. In so far as the petitioners' contention that they be accorded preference in allocation of spaces on account of them being persons with disabilities is concerned; no such order is required to be passed at this stage. Section 38 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, provides that the appropriate government would frame a scheme specifying all matters as provided in the Second Schedule to the Act. The Second Schedule to the Act expressly provides that the Scheme will include provisions as to 'the other categories of persons for preference for issue of certificate of vending'. The Government of National Capital Territory of

Signature Not Verified

Digitally Signed
By: DUSHYANT
RAWAL



2024:DHC:7019-DB



Delhi has framed 'The Government of National Capital Territory of Delhi Street vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019'. Paragraph 6.2 of the said scheme contains provisions for according preference to persons with disabilities. Needless to state that at the appropriate stage of issuance of certificate of vending, the concerned authority shall comply with the provisions of the aforesaid scheme.

11. It is further clarified that in the event the petitioners carry on their vending activities not in conformity with the applicable norms (4ft x 6ft open to sky) or contrary to law, this order would not be construed as affording them any protection from being removed from their vending sites.

12. The petitions are disposed of in the aforesaid terms. Pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 10, 2024

'gsr'

[Click here to check corrigendum, if any](#)