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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13596/2022 CM APPL. 41432/2022**
ANIL KUMAR GUPTA Petitioner
Through: **Mr. N.K. Sahoo, Adv.**

versus

NEW-DELHI MUNICIPAL COUNCIL AND ANR..... Respondents
Through: **Ms. Devika Mohan, Adv. for NDMC.**

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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27.03.2024

1. The petitioner has filed the present petition, *inter alia*, praying as under:

“(a) To admit the Writ Petition against respondents; writ or direction or order directing the respondents to permit the petitioner to carry on trade from his place of squatting opposite Shop No 20 Wadahera Sons, Regal Building , CP New-Delhi -1;”

2. Undisputedly, the squatting site referred to by the petitioner falls in a non-vending zone. However, Mr. N.K. Sahoo, learned counsel appearing for the petitioner submits that the petitioner is entitled to carry on the vending activities at the given site since he has been vending at that site since the year 1979. He also referred to the affidavit filed on behalf of respondent no.1, New Delhi Municipal Council (NDMC), before the Supreme Court in Writ Petition (Civil) No. 1231/2019 and pointed out that it is the NDMC's stand that “*to maintain discipline on the ground, those vendors who are vending after the enactment of Street Vendors (Protection of Livelihood and*



Regulation of Street Vending) Act, 2014 and do not have sufficient documents for vending purposes are being removed". He submits that in view of this stand, those persons who have been vending prior to enactment of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 cannot be removed.

3. We have heard the counsel for the parties.

4. The question whether the petitioner is a *bona fide* street vendor, vending at the site is a contentious issue. The petitioner claims that he has been carrying on vending activities continuously since 1979, however, the same is disputed on behalf of the NDMC. In support of the claim that the petitioner has been vending at the given site, he relies on a certificate dated 16.03.1986 issued by the Secretary (Law & Judicial), Delhi Administration Delhi. The said certificate states that the certifying authority is satisfied that the petitioner has a genuine claim to squat and hawk at the site at Regal Building, Connaught Place.

5. Ms. Devika Mohan, learned counsel appearing on behalf of the NDMC stoutly contests the said claim. She submits that the Secretary (Law & Judicial), Delhi Administration, Delhi has no authority to issue any such certificate. She also referred to an order dated 31.05.1988 passed by the Supreme Court in an application filed by the NDMC praying that the Secretary (Law & Judicial Authority), Delhi Administration, Delhi should not be permitted to issue certificates. The Supreme Court had issued notice in the said application.

6. She submits that thereafter, the judicial committee appointed by the Supreme Court had examined the petitioner's claim and found the same to be frivolous. She also drew the attention of the Court to paragraph 9 of the



counter-affidavit filed on behalf of the NDMC. The same reads as under:

“9. It is submitted that the Judicial Committee constituted by the Hon’ble Supreme Court on 7.8.1990, called his claims frivolous and dismissed the claims of the Petitioner. Furthermore it has been recorded in the said order that the Petitioner herein did not appear in the witness box for the purpose of cross examination inspite of seeking adjournment. It is further submitted that at the random look of the claim of the Petitioner herein the Judicial committee analysed that the Petitioner has only be challenged 5 times in a year and that the signatures in the original register do not tally with the signature done in the affidavit of the claims. The committee also noted that one brief case was seized from the Petitioner which contained lottery tickets which was not the business of the Petitioner herein and moreover the receipts which ever filed by the petitioner did not pertain to the business of readymade garments or the juice stall claimed by the Petitioner herein. Furthermore it has been recorded in the said order that on inspection by the judicial committee the Petitioner himself was not found squatting at the site. A copy of the order dated 7.8.1990 passed by the Judicial Committee constituted by Hon'ble Supreme Court is annexed hereto and marked as ANNEXURE R-3.”

7. Despite sufficient opportunities, the petitioner has not filed the rejoinder and the averments made in the counter-affidavit are not traversed. Considering the petitioner’s claim that he has been squatting at the site since 1979, the petitioner hardly has any documents to substantiate the same. The judicial committee (Thareja Committee) constituted by the Supreme Court had examined the petitioner’s claim and had rejected the same. A perusal of the order passed by the said committee indicates that the committee had examined all the documents as produced by the petitioner in support of his



claim. And, had concluded that the petitioner had made a false claim in respect of the given site and was not entitled to any relief.

8. In view of the above, the petitioner's prayer that he be permitted to carry on trade from a site which falls in a no vending zone cannot be granted.

9. The petition is accordingly dismissed. Pending application also stands disposed of.

10. It is clarified that the present order will not preclude the petitioner from participating in the survey as and when conducted.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MARCH 27, 2024/r

Click here to check corrigendum, if any