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

+ W.P.(C) 13229/2022 CM APPL. 40065/2022

USHA GANGEDIA

..... Petitioner

Through: Mr. Kamlesh Kr. Mishra, Mr. Bibhuti
Bhushan Mishra and Ms. Tripti Juyal,
Advocates

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Ms. Nitika Bhutani, Adv for R2-R3.

(34)

+ W.P.(C) 13985/2022 CM APPL. 42773/2022

PRADEEP KUNDRA

..... Petitioner

Through: Mr. Kamlesh Kr. Mishra, Mr. Bibhuti
Bhushan Mishra and Ms. Tripti Juyal,
Advocates

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sriharsha Peechara, Standing
Counsel with Ms. Harshita Gupta,
Mr. Akshat Kulshreshtha and Mr.
Shubham Kumar Mishra, Advocates
for NDMC

(35)

+ W.P.(C) 13986/2022 CM APPL. 42774/2022

RATTAN SINGH

..... Petitioner

Through: Mr. Kamlesh Kr. Mishra, Mr. Bibhuti
Bhushan Mishra and Ms. Tripti Juyal,
Advocates

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sriharsha Peechara, Standing
Counsel with Ms. Harshita Gupta,
Mr. Akshat Kulshreshtha and Mr.
Shubham Kumar Mishra, Advocates
for NDMC



(36)

+ W.P.(C) 13987/2022
MUQUIMUDDIN

..... Petitioner

Through: Mr. Kamlesh Kr. Mishra, Mr. Bibhuti
Bhushan Mishra and Ms. Tripti Juyal,
Advocates

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Ms. Urvi Mohan, Advocate for
GNCTD/Delhi Police
Mr. Sriharsha Peechara, Standing
Counsel with Ms. Harshita Gupta,
Mr. Akshat Kulshreshtha and Mr.
Shubham Kumar Mishra, Advocates
for NDMC

(37)

+ W.P.(C) 13988/2022 CM APPL. 42776/2022
SOBHA CHAND

..... Petitioner

Through: Mr. Kamlesh Kr. Mishra, Mr. Bibhuti
Bhushan Mishra and Ms. Tripti Juyal,
Advocates

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Sriharsha Peechara, Standing
Counsel with Ms. Harshita Gupta,
Mr. Akshat Kulshreshtha and Mr.
Shubham Kumar Mishra, Advocates
for NDMC
Ms. Nitika Bhutani, Adv for R2-R3

(38)

+ W.P.(C) 13989/2022 CM APPL. 42777/2022
GULAB CHAND BARAR

..... Petitioner

Through: Mr. Kamlesh Kr. Mishra, Mr. Bibhuti
Bhushan Mishra and Ms. Tripti Juyal,
Advocates

versus

GOVT. OF NCT OF DELHI & ORS. Respondents



Through: Ms.Urvi Mohan, Advocate for
GNCTD/Delhi Police
Mr. Sriharsha Peechara, Standing
Counsel with Ms. Harshita Gupta,
Mr. Akshat Kulshreshtha and Mr.
Shubham Kumar Mishra, Advocates
for NDMC

(39)

+ W.P.(C) 14109/2022 CM APPL. 43111/2022
SHARDA

..... Petitioner

Through: Mr. Kamlesh Kr. Mishra, Mr. Bibhuti
Bhushan Mishra and Ms. Tripti Juyal,
Advocates

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sriharsha Peechara, Standing
Counsel with Ms. Harshita Gupta,
Mr. Akshat Kulshreshtha and Mr.
Shubham Kumar Mishra, Advocates
for NDMC

(40)

+ W.P.(C) 14110/2022 CM APPL. 43112/2022
PARVEEN KUNDRA

..... Petitioner

Through: Mr. Kamlesh Kr. Mishra, Mr. Bibhuti
Bhushan Mishra and Ms. Tripti Juyal,
Advocates

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sriharsha Peechara, Standing
Counsel with Ms. Harshita Gupta,
Mr. Akshat Kulshreshtha and Mr.
Shubham Kumar Mishra, Advocates
for NDMC

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

27.03.2024

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1. The petitioners, who claim to be street vendors, have filed these petitions, *inter alia*, praying that directions may be issued restraining the respondents from disturbing the petitioners from vending at the respective sites, which are described as located in Connaught Place area (Rajiv Chawk and Indira Chawk), New Delhi.
2. According to the respondents, the vending sites as mentioned by the petitioners fall under the 'no vending zone' and therefore, the petitioners cannot be permitted to carry on the vending activities at the given sites.
3. The learned counsel for the respondents stoutly disputes that the sites in question fall within no vending zone.
4. The learned counsel appearing for the petitioners submits that the areas in Rajiv Chowk and Indira Chowk were declared as no vending areas under the Scheme for street vendors in NDMC area framed in the year 2007 (hereafter '**2007 Scheme**'). However, the 2007 Scheme was, thereafter, not followed and a new vending plan under the Scheme [Government of National Capital Territory of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019] (hereafter '**2019 Scheme**') is being framed. He contended that Clause (e) of Paragraph 3 of the First Schedule to the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter '**the Act**') provides that no zone can be declared as a no vending zone till such time the survey has not been carried out. He contends that the survey is yet to be carried out by the Town Vending Committee (hereafter '**TVC**') and therefore, the petitioners cannot be disturbed till a vending plan is prepared.



5. He submits that a representation was made by the street vendors to the TVC, which was considered at the meeting held on 04.02.2009 and acceded to. He also referred to the minutes of the said meeting and submitted that the TVC had decided that Rajiv Chowk and Indira Chowk should be declared as vending areas. He referred to paragraph 76 of the decision of the Supreme Court in ***Gainda Ram & Ors. v. Municipal Corporation of Delhi & Ors.: (2010) 10 SCC 715*** and on the strength of the same, submitted that the NDMC was directed to comply with the orders unless the same were made subject matter of challenge before a higher forum or before a competent court. He contended that since the decision in respect of the representation made by the street vendors was not challenged, the same was required to be implemented.

6. The learned counsel appearing for the respondents countered the aforesaid contentions. He submitted that no vending areas as declared under the 2007 Scheme are required to be implemented till a plan for street vending is formulated. He submitted that Clause (e) of Paragraph 3 of the First Schedule to the Act prohibits declaration of a “no-vending zone” by the Committee till the plan for street vending is framed under Section 21 of the Act. However, the earlier orders issued by Municipal Authorities declaring no vending zone, continued to be in operation till the vending plan is made. He relied on the decision of a Coordinate Bench of this Court in ***Vyapari Kalyan Mandal Main Pushpa & Anr. v. South Delhi Municipal Corporation & Ors.: 2017 SCC OnLine Del 8962***.

7. We have heard the counsel for the parties.



8. Admittedly, the vending sites fall in the area of Rajiv Chowk and Indira Chowk. The only question to be addressed is whether the said areas are required to be treated as no vending zones by virtue of the 2007 Scheme.

9. It is material to note that NDMC had included the said areas as no vending areas under Clause 4.2 of the 2007 Scheme.

10. There is no dispute that the street vendors had made a representation to the TVC, which was considered at a meeting of the TVC held on 04.02.2009. The minutes of the said meeting indicate that the TVC had, *inter alia*, decided as under:

“15. Finally, after deliberations it was decided that Rajiv Chowk and Indira Chowk should be declared as vending areas subject to the approval of the Hon’ble Supreme Court. The areas around Chanakyapuri Foreign Mission and area near DMRC stations shall remain the non vending areas.”

11. It is apparent from the above that the decision was subject to the approval of the Supreme Court. This Court is informed that affidavits/applications were also filed before the Supreme Court. However, the Supreme Court did not pass any order approving the said decision of the TVC. According to the learned counsel for the petitioners, all decisions made by the TVC were approved in view of the expressed directions issued by the Supreme Court in paragraph 76 of the judgment in ***Gainda Ram and Ors. v. Municipal Corporation of Delhi and Ors.*** (*supra*). However, we are unable to accept the said contention.

12. The Supreme Court had taken note of an affidavit filed on behalf of NDMC in Writ Petition (being W.P.(C) 1699/1987), wherein the details of



the dispute redressal mechanisms were set out. The Supreme Court has reproduced the said dispute redressal mechanism in paragraph 74 of the said decision. It is noted that there would be a three-tier system. The Supreme Court had further noted that in paragraph 12 of the said affidavit, it was affirmed that there would be an appellate authority, which would attend to the redressal of the grievances of squatters, hawkers, traders, residents and other persons by hearing appeals against the decision of a vending committee. After taking note of the same, the Supreme Court had directed that NDMC would comply with the orders which may be passed by the adjudicatory mechanism as contemplated in the Scheme. Paragraph 75 and 76 of the decision in ***Gainda Ram and Ors. v. Municipal Corporation of Delhi and Ors.*** (*supra*) are reproduced below:

“75. In Para 12 of the affidavit it has been stated that there shall be an appellate authority which shall attend to the redressal of grievances of squatters, hawkers, traders, residents or any other person by hearing appeals against the decision of the Vending Committee (Main). Para 12 of that affidavit is set out below:

“There shall be an appellate authority. On the forwarding of petitions received by the Chairperson, this authority shall attend to redressal of grievances of squatters, hawkers, traders, residents or any other person. The authority shall also hear appeals against the decision of the Vending Committee (Main). Decisions of this authority unless challenged before a higher forum or in any competent court, shall be final. This authority shall be initially headed by a person appointed by the Chairperson having at least 10 years' legal or judicial background. There can be more than one member in this authority.”

76. In the said affidavit, which was affirmed before this Court on 24-8-2010 it has been stated that NDMC shall comply with the orders which would be passed by the adjudicatory mechanism



contemplated in the scheme and which has been approved by this Court for NDMC area, unless such orders are made the subject-matter of challenge before a higher forum or in any other competent court.”

13. In view of the above, the contention that the decision of the erstwhile TVC was required to be implemented, is erroneous. The said decision was subject to the orders passed by the Supreme Court. However, the said matter was not discussed. The said decision was not a product of any adjudicatory mechanism as referred to by the Supreme Court.

14. The issue whether the directions regarding no vending zones was required to be implemented pending finalisation of a vending plan under Section 21 of the Act is covered by the decision of a Coordinate Bench of this Court in *Vyapari Kalyan Mandal Main Pushpa and Anr. v. South Delhi Municipal Corporation and Ors.* (*supra*). Paragraph 47 and 48 of the said decision are set out below:

“47. As per the Act, the declaration of no-vending zone is to be carried out by the Plan for Street Vending to be prepared by the local authority in consultation with the Town Vending Committee [Section 21 read with the First Schedule]. At the same time, Clause 3(e) of the First Schedule provides that till the completion of survey and formulation of the plan, no zone shall be declared as a no-vending zone. This clause merely prohibits any further declaration of no-vending zones and does not nullify the existing demarcation by the municipal authorities. On the contrary, it tacitly recognises that certain areas might have already been declared as no-vending zones.

48. Accordingly, we also subscribe to the view taken by the coordinate bench of this Court Hawkers Adhikar Suraksha Samiti (*Supra*) in its order dated 05.10.2016 that as an interim measure, the non-squatting zones declared under the old schemes shall continue to be non-squatting zones for the time being. Hence, the protection



of Section 3 (3) shall not extend to vendors in no-vending zones.”

15. It is apparent from the above that till a vending plan, which demarcates a no vending zone, is framed, the existing declaration regarding non squatting zone would continue to be operative.

16. In view of the above, the relief as sought for by the petitioners cannot be granted.

17. Having stated the above, we also note the respondents’ contention that the TVC would conduct a survey shortly and all street vendors, irrespective of whether they are vending at a given site or not, would be entitled to participate in the survey by furnishing material and evidence in support of their claim of carrying on street vending activities. Needless to state that the TVC shall duly consider the same.

18. The petitions are, accordingly, disposed of. All pending applications are disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MARCH 27, 2024

g.joshi