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

% *Date of Decision: 09.09.2024*

+ **W.P.(C) 13589/2021 and CM Nos.42902/2021 and 23659/2022**

PAVITRI DEVI AND ORSPetitioners

Through: Mr N.K. Sahoo, Advocate.

versus

NEW-DELHI MUNICIPAL COUNCIL
AND ANR.

.....Respondents

Through: Mr Sriharsha Peechara, Standing
Counsel with Mr Akshat
Kulshreshtha and Mr D.S. Bhanu,
Advocates.

Mr Rishikesh Kumar, ASC for
GNCTD with Ms Sheenu Priya, Mr
Atik Gill and Mr Sudhir Kumar
Shukla, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

VIBHU BAKHRU, J. (ORAL)

1. The petitioners have filed the present petition, *inter alia*, praying that appropriate directions be issued to the respondent to maintain *status quo ante* as on 11.10.2021 and to permit the petitioners to carry on their vending activities at Gate Nos. 3 and 4, Palika Bazar, Cannaught Place, New Delhi, in terms of the order dated 10.11.2021 passed in W.P.(C) 12605/2021 and order dated 11.11.2021 in W.P.(C) 12643/2021, till temporary allotment.

2. The petitioners claim that they were carrying on their vending



activities at the given site (Gate Nos. 3 and 4, Palika Bazar, Cannaught Place, New Delhi) till they were removed. According to the petitioners, they had vacated the given site on 14.10.2021 in the wake of New Delhi Municipal Council (NDMC) undertaking a drive to remove unauthorised street vendors from the areas of Rajiv Chowk and Indira Chowk.

3. Mr Sahoo, learned counsel appearing for the petitioners submits that a writ petition was filed by the New Delhi Traders Association [being W.P.(C) 11669/2021] seeking removal of vendors from the areas (Indira Chowk and Rajiv Chowk) on the ground that it was a no vending zone. He submits that the petitioner in the said case – an association of shop owners/retailers – had not disclosed that a petition filed earlier seeking similar relief had been rejected. And, had secured orders for removal of the street vendors by concealing the earlier proceedings.

4. The petitioners state that prior to implementation of the orders passed in W.P.(C)11669/2021, the petitioners has voluntarily vacated the given site.

5. The petitioners, essentially, seek benefit of the order dated 10.11.2021 passed in W.P.(C) 12605/2021 and an order dated 11.11.2021 in W.P.(C) 12643/2021.

6. It is seen that in terms of the order dated 10.11.2021 passed by a Coordinate Bench of this Court in W.P.(C) 12605/2021 captioned *Bungalow Road Jawahar Nagar Traders Association (Regd.) v. North Delhi Municipal Corporation and Ors.*, the Court had directed the North Delhi Municipal Corporation (since now merged with Municipal Corporation of Delhi) as well as Delhi Police to undertake a coordinated action for removal of



unauthorised and illegal encroachments in the area of 1 UB to 28 UA of Bungalow Road at Jawahar Nagar. However, the Court had also observed that all persons in whose favour the court had passed orders granting protection against removal of encroachment, or had been issued *tehbazari* license, could not be removed unless they were non-compliant in the terms and conditions of the *tehbazari*. North Delhi Municipal Corporation was also directed to install sign boards in no-vending and no-hawking zones, informing the public that the area is a no-vending and no-hawking zone. Clearly, the petitioners can draw no benefit from the order dated 10.11.2021 in W.P.(C) 12605/2021. First of all, the said order was passed in respect of the aforementioned area, which did not fall within the jurisdiction of North Delhi Municipal Corporation.

7. As is apparent from the said order, the directions were for removal of encroachment. The only exception carved out was in respect of those persons who had been granted a *tehbazari* license provided that the said street vendors were carrying on the activities in accordance with the terms and conditions of their license. Admittedly, the petitioners are not *tehbazari* license holders. They have not been issued any *tehbazari* license by NDMC.

8. Insofar, as the order dated 11.11.2021 in W.P.(C) 12643/2021 is concerned, the same is an interim order whereby this Court had directed the respondents not to disturb five of the named petitioners in the said petition from the place of squatting as an interim measure. The said order was passed in view of the order dated 04.11.2009 passed by the appellate authority constituted by this Court under the direction of the Supreme Court, in Appeal No.11/2019 captioned *Adarsh Viklang Vikas Samiti Regd. v. NDMC*.



In terms of the said order, thirteen persons who are persons with disabilities, were granted protection and were permitted to carry on their vending activities from the places where they were vending their wares.

9. It is material to note that it is NDMC's case that on compassionate grounds, certain persons with disabilities, who could be accommodated at the relevant time were allowed to vend in the areas. The petitioners are not amongst those who had been granted any such permission. Clearly, the said order cannot be read to mean that all persons who seek to vend in the area of Indira Chowk and Rajiv Chowk ought to be permitted to do so notwithstanding that the area is a no-vending and no-hawking zone. The orders passed in W.P.(C) 12643/2021 are protective orders to not disturb the petitioners who were earlier allowed to vend at the given site. There is no material on record, which indicates that the petitioners in this petition had been permitted at any stage to vend in the given areas (Indira Chowk and Rajiv Chowk).

10. The areas of Indira Chowk and Rajiv Chowk have been declared a no-vending and no-hawking zone by NDMC in terms of the Scheme framed in the year 2007. The said Scheme is required to be adhered to, till a fresh vending plan is prepared in terms of Section 21 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter *the Act of 2014*). This issue was also settled by a Coordinate Bench of this Court in *Vyapari Kalyan Mandal Main Pushpa and Anr. v. South Delhi Municipal Corporation and Ors.: 2017 SCC OnLine Delhi 8962* and followed in *Veer Singh v. The Chairman NDMC and Ors.: W.P.(C) 10944/2022*.



11. It is also material to note that the petitioners have not produced any material to establish that they were carrying on their vending activities in the given area. It is also material to note that apart from the persons with disabilities [petitioners in W.P.(C) 12643/2021], and *tehbazari* holders, who are permitted to vend in the areas of Indira Chowk and Rajiv Chowk; all other unauthorised vendors were removed in the year 2016.

12. In view of the above, we are unable to accede to the prayers made in the present petition.

13. However, it is clarified that this order will not preclude the petitioners from participating in the survey to be conducted in terms of the Act of 2014 and participating in allocation of *tehbazari* licences.

14. The petition is dismissed with the aforesaid observations. The pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 09, 2024

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