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

+ **W.P.(C) 9289/2024 & CM APPL.38097/2024**

SANDHYA

.....Petitioner

Through: Mr. Niraj Chaudhary, Adv. along
with petitioner in person.

versus

**THE COMMISSIONER, MUNICIPAL CORPORATION OF DELHI
AND ORS.**

.....Respondents

Through: Mr. Umang Tyagi, ASC and Ms.
Aditi Kapoor, Adv. for R-1 and 2
/MCD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **12.07.2024**

W.P.(C) 9289/2024

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

“To pass an appropriate writ, order and mandamus thereby directing the respondents No. 1&2 either to allow the petitioner to sit / continue her business on the pavement at tehbazari site No. 16566 measuring 6 x 4 feet situated at Ajmal Khan Road, Opposite Bank Street, Near M.C. Jeweller, Karol Bagh, New Delhi-1 10005 or petitioner may be given possession of Tehbazari site near the wall of DMS Road No.8, Baljit Nagar, place No. 86/90, category-III, measuring 6'x4' and to stop the violation of fundamental rights of the petitioner and for performance and discharging of their duties by the respondents in accordance with law and other own rules and bye-laws, in the interest of justice.”

2. The petitioner states that her husband (since deceased) was allotted a tehbazari site being Site No.86/90, at squatting zone near Wall of DMS Road No.8, Baljeet Nagar, New Delhi in category – III. The said site was allotted on 05.09.2001.

3. On 04.12.2002, the petitioner's husband was re-located. He was



called upon to select either of the sites at Padam Singh Road, Saraswati Marg, Karol Bagh, Shankar Road, Bank Street, near Wall of Primary School, on or before 15.12.2002.

4. Thereafter, the petitioner's husband was permitted to carry on his business at the site described as 16566 measuring 6x4 feet situated at Ajmal Khan Road, Opposite Bank Street, Near M.C. Jeweller, Karol Bagh, New Delhi-110005 (hereafter *the tehbazari site*).

5. It is stated that the petitioner's husband expired on 16.10.2020. Thereafter, on 01.10.2021, the petitioner applied for mutation of the tehbazari site in her favour.

6. The petitioner sent a letter dated 30.04.2024 requesting the respondent no.1 to permit her to carry on the business at the tehbazari site in place of her husband. However, the petitioner's request has not been acceded to by respondent no.1. This has led the petitioner to file the present petition.

7. Mr. Tyagi, learned counsel appearing for the Municipal Corporation of Delhi (MCD) submits that the petitioner cannot be permitted to carry on any vending activities at the tehbazari site as the same falls in a 'no-hawking/no-vending zone'. He also submits that the petition does not set out the complete facts. He disputes the contention that the site at Ajmal Khan Road was allocated in favour of the petitioner's husband. He has also handed over a copy of a Circular dated 26.02.2020, which indicates that all the persons (including the petitioner's husband), who were unauthorizedly carrying on hawking activities at Ajmal Khan Road, were allocated an alternative site at "the vacant plot of land at Sat Nagar Primary School". He states that the petitioner is not entitled to allotment of any site in her favour in place of her now deceased husband, because her late husband did not take



possession of the alternate site, offered to him. Nonetheless, he states on instructions that the petitioner may still accept the alternate site, as indicated in the Circular dated 26.02.2020, i.e. the vacant land at Sat Nagar Primary School. He states that if this is acceptable to the petitioner, the MCD shall take steps to assign a place on a temporary basis to the petitioner at the said site.

8. The aforesaid offer was made by Mr. Tyagi on the previous date of hearing (hearing held on 10.07.2024) as well and the learned counsel for the petitioner had sought time to take instructions in this regard. He states today that the petitioner is ready to accept the allocation of a site at the vacant land at Sat Nagar Primary School on a temporary basis.

9. In view of the above, we dispose of the present petition by directing MCD to allocate an appropriate place at the given site (vacant land of Sat Nagar Primary School) to the petitioner to enable her to carry on her vending activities.

10. It is clarified that this allotment would be on a temporary basis and would not create any permanent rights in favour of the petitioner.

11. The same is also subject to the petitioner complying with all other formalities and on payment of the requisite charges.

12. All the pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 12, 2024/cl