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

+ **W.P.(C) 15384/2022 CM APPL. 47808/2022**

GURMINDER KAUR & ORS.

.....Petitioners

Through: Mr. Varun Singh, Mr. Himanshu
Yadav, Ms. Kajal Gupta and
Ms.Somesa Gupta, Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL & ORS.Respondents

Through: Mr. Sriharsha Peechara, SC
Mr.Tushar Sannu, ASC, Mr. Hardik
Saxena, Mr. Akshat Kulshreshtra,
Mr.Shubham Mishra Mr.D. S. Bhanu,
Mr Utkarsh Mishra and Mr Hardik
Saxena, Advocates for NDMC.
Mr Udit Malik, ASC and Mr Vishal
Chanda, Advocate for GNCTD/R2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **04.09.2024**

1. The petitioners (five in number) claim they are street vendors and were carrying on vending activities in the vicinity of India Gate, New Delhi.
2. Petitioner no.1 claims that she applied for a footpath shop license on 19.09.2022 stating that she is selling 'Matka Water' at India Gate since the year 1988. Petitioner No.3 claims that he has been selling 'Bhel Puri' at India Gate since the year 1980. And petitioner no.5 claims that he has been selling 'Tea and Snacks' at India Gate since the year 1980. They have filed the present petition being aggrieved by the action of the respondents of not permitting them to vend at the given site.
3. It is contended on behalf of the New Delhi Municipal Council (NDMC) that the area of Kartavya path and India Gate is a 'No Vending



Zone’ and therefore, the petitioners cannot be permitted to carry on such vending activities in the said area or in the vicinity thereof. This is the central controversy which is required to be addressed in the present petition.

4. The NDMC has filed the counter affidavit annexing the Scheme prepared in the year 2007 (*the 2007 Scheme*). Paragraph 4.2.1 of the 2007 Scheme is relevant and is set out below:-

“Vending Areas:-

4.2.1. Vending areas shall be:-

- Private and residential colonies other than in non-vending areas;
 - Space near bus stops;
 - Markets other than Rajiv Chowk and Indira Chowk;
 - Regulated hawking outside Schools, Hospitals, India Gate, C-Hexagon and other public places, parks including those in non-vending areas.
- However, no squatting in parks shall be allowed.”

5. It does appear from the 2007 Scheme that India Gate cannot be considered as a hawking zone. It is an area where hawking may be permitted on a ‘regulated basis’. It is also expressly noted in the 2007 Scheme that no squatting in the parks would be permitted.

6. In *Vyapari Kalyan Mandal Main Pushpa & Anr v. South Delhi Municipal Corporation & Ors: 2017 SCC OnLine Del 8962*, this Court had held that till the vending plan is prepared under Section 21 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter *the Act*), the vending zones, as declared earlier shall continue to be operative.

7. In view of the above, the area of India Gate and the vicinity thereof, is



required to be considered as a zone where only regulated hawking is permitted.

8. In the aforesaid view, it would be apposite to examine the nature and scope of vending activities, which are permitted by the NDMC.

9. The NDMC has filed an additional affidavit affirming that a meeting was held on 05.09.2022 by the Secretary, Ministry of Housing and Urban Affairs, Nirman Bhawan, New Delhi to consider the issue of street vendors at Kartavya Path/ Central Vista Avenue. The minutes indicate that it was suggested that the area along with Central Vista Avenue would be considered as a non-vending zone. However, it was noted that a large number of visitors would come to visit Central Vista Avenue and a mechanism needs to be devised to have a temporary but practical solution. Accordingly, NDMC has decided to permit 90 ice cream vendors to vend in the area. It is pointed out that the NDMC had already issued the licenses to four ice cream companies and permitted them to sell their ice cream through 299 mobile vendors. Out of the aforesaid licenses, the ice cream companies were permitted to place 90 vendors at Kartavya Path/ Central Vista Avenue and in the vicinity of India Gate. In addition, the NDMC permitted 30 vendors to disburse packaged water. The NDMC has also made an unequivocal statement that apart from the above, no other person is permitted to vend in the given zone.

10. We are unable to fault the said decision of the NDMC. Plainly the same is neither unreasonable nor capricious.

11. In view of the above, we find no grounds to interfere with the said decision in proceedings under Article 226 of the Constitution of India.

12. Insofar as the petitioners are concerned, no relief can be granted to



them for the aforesaid reason as well as for the reason that sale of goods by the petitioners is not permitted in the area.

13. Having stated the above, we also clarify that this order will not preclude the petitioners from making a representation to the NDMC for being permitted to vend in another area on the strength of their claim that have been carrying on vending activities since several years. In case the claims of the petitioners are verified, the NDMC may examine the feasibility to indicate another area where the petitioners can carry on their vending activities.

14. The petition is disposed of in the aforesaid terms. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 04, 2024

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Click here to check corrigendum, if any