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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10993/2024**

PRABHAKAR KUMAR SHAWPetitioner

Through: Mr. Aditya, Mr. Kailash Kr. Jha and
Mr. Anjani Kr. Mishra, Advs.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS

.....Respondents

Through: Mr. Divya Prakash Pande, SC for
MCD.

Mohd. Irshad, ASC along with Ms.
Nasreen and Mr. Kunal Raj, Advs. for
R-3, 4 and 5.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

20.08.2024

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1. The petitioner is a street vendor and claims that he is engaged in carrying on vending activities at 'The Footpath at DDA Sabzi Mandi, Near MCD Primary School, Dabri Mod, Najafgarh Zone, Ward-S-30'. The petitioner was also issued a Certificate of Vending (COV) indicating that he is engaged in vending of 'fresh fruits/vegetable/perishables' and is carrying on his vending activities in Najafgarh Zone, Ward-S-30.
2. The petitioner is essentially aggrieved by Clause 11 of the Terms and Conditions applicable to his COV which requires a mobile vendor to not carry on vending activities at a fixed place for more than 30 minutes or such time that may be stipulated by the Town Vending Committee (TVC).
3. The petitioner claims that he has been carrying on his vending activities from the same spot for the last three decades. The petitioner also



relies upon a letter dated 28.06.1994 whereby an open site measuring 6ft x 4ft had been allocated to the petitioner at Dabri Mod. In terms of the said letter, the petitioner was called upon to pay a security amount of ₹3,000/- in four quarterly instalments of ₹750/- each. By the said letter, the petitioner was informed that after the said amount is deposited, a Licence Deed would be executed in favour of the petitioner. However, it is conceded that no such Licence Deed was executed in favour of the petitioner. The learned counsel also fairly states that there is no evidence that the petitioner has paid the amounts as reflected in the said letter.

4. In the aforesaid circumstances, we are unable to accept that the petitioner is entitled to the benefit of any such licence. Since no specific site has been allotted to the petitioner, at the current stage, the petitioner is required to be treated as a mobile vendor.

5. This court is also informed that the COVs issued to the vendors are interim COVs and the final COV, which would take into account the classification of vendors in terms of Section 6(1) of The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, would be issued after the second TVC is constituted. The municipal authorities are also required to prepare a vending plan in accordance with Section 21 of the said Act. The question whether a fixed site can be allocated to a street vendor and whether he is entitled to be classified as a stationary vendor would necessarily have to be considered in the light of the vending plan. Although the petitioner has highlighted a genuine difficulty in relocating every 30 minutes, in the absence of allocation of any fixed site to the petitioner, no orders for permitting the petitioner to vend at a fixed site can be issued at this stage.



6. The petitioner has already made a representation dated 04.08.2024 to the Commissioner, Municipal Corporation of Delhi (MCD) as well as to the Chairman (TVC). We consider it apposite to direct the concerned respondents that the petitioner's representation be considered at an appropriate stage.

7. We also direct that subject to the petitioner carrying on his vending activities in accordance with law and in terms of his COV, the petitioner would not be disturbed from carrying on his vending activities.

8. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 20, 2024/cl