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

+ **W.P.(C) 11074/2024 & CM APPL. 45751-752/2024**

**BAIJ NATH GUPTA**

.....Petitioner

Through: Mr Bharat Aggarwal, Mr Himanshu Aggarwal and Ms Namrata Sharma, Advocates.

versus

**NEW DELHI MUNICIPAL COUNCIL & ANR.** .....Respondents

Through: Mr Sriharsha Peechara, SC, Mr Akshat Kulshresetha, Mr Shubham Mishra, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE SACHIN DATTA**

**ORDER**

**09.08.2024**

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1. Issue notice.

2. The learned counsel for the respondents accepts notice.

3. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the New Delhi Municipal Council (NDMC) to allocate any site. The petitioner is a street vendor and claims that he has been carrying on street vending activities from a site described as “Near N-69, LIC Building, Middle Circle, Connaught Place, New Delhi” for several years. The petitioner is aggrieved as he is not being permitted to carry on the vending activities from the said site. He states that he is seventy-two years of age and requires to carry on vending activities for earning his livelihood for keeping his body and soul together.

4. Mr Peechara, learned counsel for the NDMC submits that the



petitioner has not disclosed that he had on an earlier occasion filed a petition being the W.P.(C) No.2528/2023, *inter alia*, praying that he be not dispossessed or disturbed from carry on his vending activities from the given site. However, the petitioner had confined the said petition for seeking directions to the Town Vending Committee (TVC) to consider his representation dated 16.01.2023 expeditiously. The said prayer was allowed. He submits that the present petition should be dismissed for suppression of material facts.

5. However, it is not disputed that the petitioner has neither been allotted any site nor has he been permitted to vend in any specified area.

6. The petitioner claims that his name is mentioned in the list of 628 street vendors eligible for allotment of *tehbazari* sites, that was prepared in the year 2012. This substantiates his claim that he is carrying on vending activities since several years. The petitioner has also produced challans showing the payment of fine to the NDMC, last one is dated 15.11.2018.

7. Mr Peechara submits that there is a doubt as to whether the petitioner's name features in the list of 628 persons. Although, the list mentions the name as Bej Nath s/o Gur Var Ram at Sr. No.306 of the said list. The petitioner's father's name as mentioned in the memo of parties is K B Ram. Same is also reflected in the Aadhaar Card, a copy of which has been produced by the petitioner. He also submits that there is doubt whether the challan dated 15.11.2018 was issued to the petitioner as the NDMC is unable to find any record of the same. However, he does not dispute other challans. He also submits that the challan bearing date 11.11.2017 does not



bear the name of the petitioner. Therefore, it would not be possible to say whether the challan was issued in the name of the petitioner without examining the records. However, he does not dispute the challan dated 10.05.2016.

8. We are unable to accept that the petitioner is not carrying on vending activities notwithstanding that the NDMC has raised doubts as to the challan dated 11.11.2017 and 15.11.2018. Undeniably, the challan dated 11.11.2017 has been issued by the NDMC and they were required to mention the name of the person to whom the challan has been issued. However, it appears that the NDMC has adopted the process of not mentioning the name of the street vendor from whom the fine is received. NDMC now writes “U/A” instead of the name of the payer.

9. The area of Rajiv Chowk and Indira Chowk have been declared as no-hawking/no-vending zones as per the scheme prepared in the year 2007 and thus the petitioner is not permitted to carry on vending activities at the given site. However, the petitioner cannot be deprived of his livelihood for the said reason.

10. In view of the above, we consider it apposite to permit the petitioner to file a representation with the NDMC for allocation of any area where the petitioner can carry on the vending activities in accordance with the given norms [Open to Sky, 6X4 feet].

11. If any application is filed by the petitioner within a period of two weeks from date, we request the NDMC to consider the same within a period of four weeks thereafter.



12. Needless to state that any such allocation would be purely on temporary basis till the vending plan is being prepared in accordance with Section 21 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

13. The petition is disposed of in the aforesaid terms. Pending applications also stand disposed of.

**VIBHU BAKHRU, J**

**SACHIN DATTA, J**

**AUGUST 09, 2024**

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*Click here to check corrigendum, if any*