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

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Date of Decision: 07.05.2024

+ **W.P.(C) 15680/2023 and CM Nos.62904/2023, 10507/2024**

MAHA SHANKAR UPADHYAY & ORS. Petitioners

Through: Mr Milan Verma and Mr Aman
Sharma, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr Udit Malik, ASC and Mr Vishal
Chanda, Advocate for R-1 and R-3/
GNCTD.
Ms Puja Kalra, SC for MCD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

VIBHU BAKHRU, J.

1. The petitioners (fourteen in number) have filed the present petition, *inter alia*, praying that the respondents be restrained from evicting or removing the petitioners from their respective fixed places of squatting as mentioned in the memo of parties. The memo of parties indicate that the petitioners are squatting/hawking in front of various shops located at various locations in Kamla Nagar, Delhi.

2. Petitioner nos.1 and 2 have been issued Certificates of Vending (hereafter COVs) indicating their area of vending as Keshav Puram, Ward No.78-N. The other petitioners claim that they have participated in the



survey and are entitled to be issued COVs. It is the stand of respondent no.2, Municipal Corporation of Delhi (MCD) that the petitioners have been removed for two reasons. First, that they are vending in a ‘no vending zone’; and second, that petitioner nos.1 and 2 are not complying with the conditions of their COVs.

3. Admittedly, the petitioners have neither been allocated any fixed place of vending nor issued any *Tehbazari* license. Petitioner nos.1 and 2 have been issued COVs, which are in the nature of interim COVs permitting them to carry on their vending activities in the stated zone, subject to them complying with the terms and conditions of the COVs. One of the conditions as applicable requires the said street vendors to not carry on the vending activities from a fixed place for more than thirty minutes or such time as may be fixed by the Town Vending Committee (hereafter *TVC*).

4. MCD claims that specific locations can be assigned to the street vendors only after the preparation of the vending plan under Section 21 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter *the Act*) in consultation with the Second TVC (TVC-II). It is stated that after the survey is complete, the TVC-II would be constituted, which would also include representatives of the street vendors.

5. MCD does not dispute that till the vending plan is prepared, the petitioners may carry on their vending activities from areas, which have been earmarked as squatting zones, but not from other areas falling within the given ward (Ward No.78-N). MCD also states that a list of squatting



areas in Keshav Puram Zone and the Civil Lines Zone, which was prepared earlier is being adhered to.

6. The learned counsel appearing for the petitioners submitted that the MCD has been including additional areas, which were otherwise squatting areas, as no vending areas. He submitted that this is impermissible under the Act. He referred to the provisions of Clause (e) of Section 3 of the First Schedule to the Act, which proscribes declaration of ‘no vending zones’ till the survey has been carried out and the vending plan is prepared. He, however, conceded that in view of the earlier decisions of this Court, no squatting or no vending zones, which were declared prior to the Act coming into force, would continue to be operative.

7. The learned counsel for the MCD stoutly disputes that any new area has been added as a No Vending Zone.

8. In view of the above, the controversy between the parties is considerably narrowed down to whether any new area in the Keshav Puram Zone has been added as a No Vending Zone after the Act came into force. It was earnestly contended on behalf of the petitioners that “Kirorimal College Road, E-Block” is being treated as a No Vending Zone, which was otherwise included in the list of squatting areas.

9. We have heard the learned counsels for the parties at length in this regard.

10. It is not disputed that Kirorimal College Road, E-Block is a squatting



area. However, the controversy is the location of the said area. The learned counsel appearing for the MCD has filed a map, which marks out the said area (Kirorimal College Road, E-Block) as the area falling within the Civil Lines Zone after the junction with Bungalow Road towards Kirorimal College. It does not include the road leading from Spark Mall or Maharaja Agrasen Chowk to Kirorimal College prior to the junction with the Bungalow Road. Although E-Block of Kamla Nagar is located on either side of the road from Maharaja Agrasen Chowk leading to Kirorimal College. The map as produced (if assumed to be perfectly aligned on the compass) reflects Kirorimal College E-Block Road on the southern side of the Bungalow Road. However, the roads north of Bungalow Road leading to Spark Mall and Maharaja Agrasen Chowk are not considered as E-Block Road as that area falls in the vicinity of Spark Mall.

11. Kirorimal College, E-Block Road is a squatting area, but falls in the Civil Lines Zone. It is not disputed that the area of the Wards has been altered. However, the MCD states that the boundaries of the relevant zones remain the same.

12. The learned counsel appearing for the MCD had also referred to the order dated 28.11.2019 passed by the Division Bench of this Court in ***Ram Prakash @ Prakash & Ors. v. North Delhi Municipal Corporation and Others: W.P.(C)9307/2019***, which refers to the location in question (Kirorimal College Road, E-Block) and notes that the same falls in the Civil Lines Zone. Paragraph 3 of the said order is set out below:

“3. Next, learned counsel for the petitioners seeks to refer to



another list prepared by the respondent/Nr.DMC for the Civil Line Zone, which includes the list of squatting areas and mentions Kirori Mal College Road, E-Block at serial No.119. As already noticed hereinabove, Kirori Mal College, E Block does not fall within the Kamla Nagar ward and therefore, no benefit can be drawn by the petitioners by relying on the said list.”

13. It is apparent from the above that it has been the consistent stand of the MCD that the location Kirorimal College Road, E-Block falls in the Civil Lines Zone, which as depicted in the map filed by the MCD is on the southern side of the Bungalow Road.

14. In view of the above, we are not persuaded to accept the contention that the MCD has altered the squatting zones as claimed. Concededly, the petitioners cannot be permitted to vend in a No Vending Zone.

15. This Court is informed that a survey has been conducted and steps would be taken for constituting the TVC-II after the survey is completed and the final COVs would be issued thereafter. We do not consider it apposite to pass any orders in this regard.

16. In view of the above, the petition is dismissed. All pending applications are also disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MAY 07, 2024
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