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

% **Date of Decision : 29.08.2024**

+ **W.P.(C) 11748/2024 & CM APPL. 48852/2024 (interim directions)**

SHAMBHU BHARDWAJ AND ORS

.....Petitioners

Through: Ms. Renu, Ms. Snigdha Anand and
Mr. Kamlesh Kumar Mishra,
Advocates.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS...Respondents

Through: Mr. Varun Chandiok, Mr. Alok
Kumar and Ms. Anubhi Goyal,
Advocates for MCD.

Mr. R. Venkat Prabhat, SPC along
with Mr. Abhinav M. Goel and Mr.
Rahul K. Sharma, GP, Advocates for
R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

VIBHU BAKHRU, J. (Oral)

1. The petitioners, who claim to be street vendors, have filed the present petition, *inter alia*, praying as under :-

“I. Pass an order declaring the action of the respondents of damaging and destroying the articles of the petitioners on 25.07.2024 (as described in para 10 of the petition and annexure 11 and 12) to be illegal and arbitrary, unconstitutional and in contravention of the provisions of the street vendors act (protection of livelihood & regulation of street vending) act 2014.

II. Pass an order directing the respondents to allow the petitioner street vendors to vend as stationery street vendors and in terms of the Vending certificates issued to them as



described in para 09 of the present petition.

III. Pass an order for quashing and setting aside clause 11 of the terms and condition printed on the backside of the Certificate of vending and further declare the same to be not to be applicable to the petitioners for the reason that the petitioners are stationary vendors.

IV. Pass an order directing the respondents to consider and act on the representations made by the petitioner.

V. Pass any such direction or order that this Hon'ble court deems fit and proper in the facts and circumstances of the above-mentioned case."

2. The petitioners state that they were vending at the site described as 'South Zone, Ward S-68, New Ward 155, Car Market, Near Ambience Tower on the vacant land near car market, Sector A, Pocket A, Vasant Kunj North'. The petitioners state that during the years 2022 to 2023, the Municipal Corporation of Delhi (MCD) and the Police officials started disturbing their activities and in some instances, they confiscated their goods and articles. The petitioners claim that they are being harassed by the MCD and the Police officials on a day to day basis.

3. The petitioners state that at about 11:00 AM on 25.07.2024, the MCD and Police officials, along with a group of twenty-five to thirty persons reached the petitioners' vending area with a 'JCB machine', to demolish the vending set up and other equipment.

4. The petitioners claim that the said action was completely illegal and was carried out without any prior notice. The petitioners, accordingly, pray that the said action be declared as illegal.

5. The petitioners have been issued Certificates of Vending (hereafter



the CoVs). In terms of Clause 11 of the Terms and Conditions of the CoVs, a mobile vendor is proscribed from carrying on vending activities from a fixed place for more than thirty minutes or such further time as may be fixed by the Town Vending Committee (hereafter *the TVC*).

6. The petitioners claim that the said clause is inapplicable to them as they are stationary vendors and cannot be considered as mobile vendors. The petitioners also pray that the said clause of the Terms and Conditions of the CoV, be set aside.

7. The learned counsel appearing for the MCD submits that the action carried on 25.07.2024 was a joint action by the MCD and the Public Works Department (PWD). It is stated that the action was carried out under the supervision of the concerned Sub-Divisional Magistrate and the Police authorities.

8. It is apparent from the pleadings in the petition that on prior occasions, the officials of the MCD had taken steps to remove and confiscate the goods sold by the petitioners. As noted above, the petitioners claim that they were harassed on almost daily basis during the year 2022-2023. However, the petitioners had not removed their structures and continued to encroach upon public land.

9. Admittedly, the petitioners have not been allotted or allocated any specific sites and therefore, the petitioners' contention that at this stage, they are required to be treated as stationary vendors is not persuasive.

10. The photographs placed on record also indicate that the petitioners had raised certain permanent/semi-permanent structures. They were not carrying on the vending activities as per the norms – open to sky and 6X4 feet.



11. In terms of Section 6 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter *the Act*), the street vendors are required to be classified in three categories. Section 6 (1) of the Act is set out below :-

“6. Categories of certificate of vending and issue of identity cards.—(1) The certificate of vending shall be issued under any of the following categories, namely:—

- (a) a stationary vendor;
- (b) a mobile vendor; or
- (c) any other category as may be specified in the scheme.”

12. The CoVs issued to the petitioners do not reflect them as stationary vendors. This Court is also informed that the CoVs issued to the petitioners are only interim CoVs and the final CoVs will be issued after the second TVC is constituted, which would also include the representatives of the street vendors.

13. In terms of Section 21 of the Act, a vending plan is required to be prepared by the local authority in consultation with the Town Vending Committee. This Court is informed that the question of allocating any fixed site to any street vendor can only be considered at that stage as no specific site can be allocated to a street vendor prior to the preparation of the vending plan and identification of fixed sites.

14. At this stage, the survey is being conducted. The said exercise was held up on account of Aadhaar linking of street vendors. A notification under Section 4(4)(b)(ii) of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, in this regard has since been issued. This Court is informed that further steps will be taken shortly.

15. In the given circumstances, we consider it apposite to allow the



petitioners' prayer for their representations to be considered by the concerned authorities at an appropriate stage. It is so directed.

16. No further orders are required to be passed at this stage. We, however, observe that it would be apposite for the MCD to issue a prior notice for any proposed action of demolition in order to enable the street vendors to voluntarily remove their structures.

17. The petition is disposed of in the aforesaid terms. The pending application is also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 29, 2024

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