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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 16468/2023

HAWKERS SURKSHA FOUNDATION ALL INDIA (REGD.)

..... Petitioner

Through: Mr. N.K. Sahoo, Adv.

versus

NEW-DELHI MUNICIPAL COUNCIL & ORS. Respondent

Through: Mr. Sri Harsha Peechara, standing counsel with Ms. Harshita Gupta, Mr. Akshat Kulshreshtha and Mr. Shubham Kumar Mishra, Advs. for R-1.

Ms. Puja Kalra, Standing Counsel with Mr. Virendra Singh, Adv. for R-2.

Mr. Rishikesh Kumar, ASC, GNCTD with Ms. Sheenu Priya and Mr. Sudhir, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

11.01.2024

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1. The petitioner – the registered society espousing the cause of squatters and hawkers – has filed the present petition, *inter alia*, praying as under:

“(a) To issue a writ of mandamus or appropriate writ or direction or order directing the respondents to clarify whether their scheme-2007 & MCD Scheme-2007 be enforced as old schemes for the purpose of Non Vending & Non Hawking Zone when there were old scheme and policy in term of Judgment 30 & Order dated 03.07.2017 passed in Writ Petition No 2556/2015 when TVC has become functional.”

2. Mr. Sahoo, learned counsel appearing for the petitioner submits that since survey has not been conducted as yet by the Town Vending



Committee (TVC), no area can be declared as non-vending zone. He also referred to the clause (e) of paragraph 3 of the First Schedule of The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 [hereinafter referred to as “Act”], which expressly provides that if a survey has not been carried out and a plan for street vending has not been formulated, no zone shall be declared as a non-vending zone. He submits that notwithstanding the express provisions of the said clause, the respondents are proceeding to implement the designated ‘non-vending’ and ‘non-hawking’ zones. It is in the aforesaid context that the petitioner seeks a clarification whether the scheme of 2007/MCD Scheme of 2007 is being enforced by the respondents to implement the non-vending and non-hawking zones. In this regard, the petitioner also draws the attention of the Court to the Government of NCT of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019 which is in effect from 03.10.2019.

3. The learned counsel appearing for respondent no.1 submits that the survey is yet to be carried out and immediately thereafter, a plan would be formulated in accordance with the First Schedule in the Act. However, pending formulation of such plan, earlier orders concerning non-vending zone and non-hawking zone are operative.

4. The learned counsel for the petitioner also referred to the judgment of the Coordinate Bench of this Court passed in W.P.(C) 2556/2015 captioned ***Vyapari Kalyan Mandal Main Pushpa & Anr. v. South Delhi Municipal Corporation & Ors.*** and drew the attention of this Court to paragraph 47 and 48 of the said judgment. The said paragraphs are set out below:

“47. As per the Act, the declaration of no-vending zone is to be



carried out by the Plan for Street Vending to be prepared by the local authority in consultation with the Town Vending Committee [Section 21 read with the First Schedule]. At the same time, Clause 3(e) of the First Schedule provides that till the completion of survey and formulation of the plan, no zone shall be declared as a no-vending zone. This clause merely prohibits any further declaration of no-vending zones and does not nullify the existing demarcation by the municipal authorities. On the contrary, it tacitly recognises that certain areas might have already been declared as no-vending zones.

48. Accordingly, we also subscribe to the view taken by the coordinate bench of this Court Hawkers Adhikar Suraksha Samiti (Supra) in its order dated 05.10.2016 that as an interim measure, the non-squatting zones declared under the old schemes shall continue to be non-squatting zones for the time being. Hence, the protection of Section 3 (3) shall not extend to vendors in no-vending zones.”

5. It is clear from the aforesaid passages that till a plan for demarcating non-vending zones is formulated, the existing demarcation by the municipal authorities shall continue.
6. The learned counsel for the respondents also states that currently the 2007 schemes in respect of non-vending zone and non-hawking zone are being implemented.
7. The said statement addresses the prayer made by the petitioner.
8. The petition is accordingly disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

JANUARY 11, 2024/r

Click here to check corrigendum, if any