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

+ **W.P.(C) 13322/2024**

BHAGNARAYAN YADAV

.....Petitioner

Through: **Ms. Geeta Verma, Advocate.**

versus

**GOVERNMENT OF NCT
OF DELHI AND ORS.**

.....Respondents

Through: **Mr. Raghvendra Upadhyay,
Panel Counsel for GNCTD with
Ms. Purnima Jain and Mr.
Vaibhav Tripathi, Advocates
for R-1.**

**Mr. Sriharsha Peechara, SC
with Mr. Akshat Kulshreshtha,
Mr. DS Bhanu and Ms.
Arsheiya Munjal, Advocates for
NDMC.**

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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08.10.2024

CM APPL. 55678/2024 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

W.P.(C) 13322/2024 & CM APPL. 55677/2024 (for directions)

1. This writ petition has been preferred seeking the following reliefs:-

“(a) Issue a writ or direction in the nature of mandamus directing to the respondents not to evict or dispossess the petitioners from his existing vending site in front of Shop No. 56-57 vegetable market under the mandate of section 3(3) of the Act to prevent



further damage of livelihood of Petitioner belonging to economically weaker section of society.

- (b) Issue a writ or direction in the nature of mandamus directing to the respondents to provide similar relief on ground of parity as direction passed by this Hon'ble Court in LPA No. 136/2016 at Para 26(2) vide order 18.05.2016.
- (c) Issue a writ or direction in the nature of mandamus directing to the respondents to declare Sarojini Nagar Market, New Delhi as natural market in view of section 2(e) of the Act read with First Schedule of the Act and Plan for street vending at Point a, b and c.
- (d) Award the cost of the petition in favour of the petitioner."

2. We, however, find from the record that inter partes and on 02 March 2017, the Court had passed the following order:-

- "1. Petitioners in the present writ petitions are in the list of 628 persons and claim that they have been continuously squatting at different sites in Sarojini Nagar area.
- 2. During the course of hearing, an offer was made by Mr. Peechara, learned counsel for NDMC that NDMC would consider allotting sites to such persons who were removed in September-October, 2016 and are in the list of 628 persons.
- 3. We may note that this Court had made a spot inspection of the area of Laxmi Bai Nagar in the presence of the Standing Counsel, NDMC, Chairman, NDMC, Director (Enforcement) and also some of the lawyers including Mr. Sumit, Mr. Tripathi. Principally, this site found favour with the counsels appearing for the Street Vendors.
- 4. Today, the petitioners in writ petitions being W.P. (C) Nos.559/2017, 959/2017 and 1301/2017 have given their consent for being allotted sites at Laxmi Bai Nagar. It is agreed between the counsels that the procedures for allotment should be transparent and fair. The allotment will be made as per seniority out of the persons who are in the list of 628 persons and have been removed around September-October, 2016 and also thereafter, at the first instance.
- 5. Mr. Peechara submits that notices will be sent to all those persons who have been removed out of 628 persons; a seniority list will be prepared; service on those persons will be ensured; and one week's time will be given to accept the offer, failing which the offer will be given to the next eligible persons. In case all the petitioners in the aforesaid matters are found eligible, they shall be given allotment, subject to the usual norms and terms of NDMC. Leave as prayed is granted to the petitioners to approach this Court in case they are not found successful and there is any grievance at their end.



6. The writ petitions are accordingly disposed of.
7. Pending applications also stand disposed of.”

3. As is apparent from a reading of paragraph 4 of the aforementioned order, the writ petitioner had given his consent for being allotted a site at Laxmi Bai Nagar. The respondents disclose before us that although the petitioner was called to participate in the allotment process, he never came forward. Notwithstanding the above, it is their case that in light of the directions earlier issued, they would still be ready and willing to allot an appropriate site to the writ petitioner at Laxmi Bai Nagar.

4. In our considered opinion, once the petitioner had consented for being shifted to Lakshmi Bai Nagar, the relief for being permitted to continue at Sarojini Nagar Market is thoroughly misconceived and clearly in abuse of the process of Court.

5. The writ petition is accordingly dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 8, 2024/vp