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

+ **W.P.(C) 6844/2024 CM APPL. 28527/2024**

SURYA KANT TYAGI & ANR.

..... Petitioners

Through: Mr. Lakshay Sawhney, Mohd.
Noumaan, Advs. with petitioners in
person.

versus

CHAIRMAN, NEW DELHI MUNICIPAL COUNCIL & ORS.

..... Respondents

Through: Mr. Sri Harsha Peechara, Standing
Counsel with Ms. Devika Mohan,
ASC, Ms. Harshita Gupta, Mr. Akshat
Kulshreshtha and Mr. Shubham
Kumar Mishra, Advs. for NDMC.
Mr. Udit Malik, ASC with Mr. Vishal
Chanda, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **14.05.2024**

CM APPL. 28528/2024(Exemption)

1. Allowed, subject to just exceptions
2. The application stands disposed of.

W.P.(C) 6844/2024 & CM APPL. 28527/2024(stay)

3. The petitioners have filed the present petition impugning an order dated 01.08.2023 passed by the Deputy Director, Enforcement Department (North), New Delhi Municipal Council (NDMC).
4. The petitioners are street vendors and are engaged in carrying on vending activities. They had filed a writ petition being W.P.(C)12754/2022 captioned *Surya Kant Tyagi & Ors. v. Chairman, New Delhi Municipal Council & Ors., inter alia*, praying that they not be disturbed from carrying



on their vending activities. They had also sought that NDMC be directed to decide their representations dated 11.02.2022 and 29.03.2022, which were annexed with the said petition. During the course of the hearing, the learned counsel for the petitioners had confined the relief to the said prayer alone. The learned counsel appearing for NDMC, at that stage, made a statement that NDMC would decide the representations filed by the petitioners after affording them an opportunity to be heard. The said writ petition was disposed of accordingly.

5. Pursuant to the statement made on behalf of NDMC, in the said proceedings [W.P.(C)12745/2022], the representations filed by the petitioners were heard by the concerned official of NDMC and the same were disposed of by a speaking order dated 01.08.2023, which is impugned in the present petition. A plain reading of the said order indicates that the petitioners had claimed that they be allowed to vend in the vicinity (the *verandah*) of Regal Building, Connaught Place, Delhi. The concerned official of NDMC has rejected the said prayer on the ground that the said area falls in a no-vending/no hawking zone of Connaught Place, Delhi. It was also noted that similar action was taken in respect of other street vendors who were vending at the said sites.

6. The petitioners claim that the petitioners have been removed despite being in the list of 628 street vendors, which was prepared in the year 2012. The learned counsel for the petitioners contends that the petitioners have a vested right to carry on their vending activities from the area in question as their names feature in the aforementioned list. The learned counsel for the petitioners also referred to the order passed by a Coordinate Bench of this Court in ***Pradeep Kumar and Ors. v. New Delhi Municipal Council and***



Ors.: MANU/DE/3028/2017 as well as the order dated 18.05.2018 passed by the Supreme Court in IA Nos. 74451 and 74452 of 2018 in Writ Petition (Civil) No. 4677/1985 captioned ***M.C. Mehta v. Union of India & Ors.*** He submits that the statements were made on behalf of the respondents that all persons whose names are found in the list of 628 unauthorized street vendors would be permitted to carry on their vending activities. He also seeks to rely on the statement made by the learned ASG before the Supreme Court as recorded in the order dated 18.05.2018.

7. It is material to note that the list of 628 street vendors was drawn up in the year 2012 for allocation of vending sites (386 spaces) which were available with the NDMC. All street vendors who were found eligible for such allotment were included in the said list. However, the exercise for allocation of 386 vending spaces could not be completed and was abandoned.

8. Since, an exercise for determination of the eligibility of street vendors had been undertaken and 628 street vendors were found eligible, protective orders have been passed from time to time by the courts to ensure that the said street vendors are permitted to carry on their vending activities. However, the contention that the said street vendors are entitled to carry on their vending from a no-vending/no hawking zone is unmerited. The orders of protection were granted solely on the assumption that the said list presented a list of *bona fide* street vendors.

9. In ***Vyapari Kalyan Mandal Main Pushpa & Anr v. South Delhi Municipal Corporation & Ors: 2017 SCC OnLine Del 8962***, a Coordinate Bench of this Court held that earlier declarations made regarding no vending zone and no hawking zones in the 2007 Scheme of the Municipal



Corporation of Delhi would continue to be operative till a fresh vending plan is framed under Section 21 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. The area of Connaught Place falls within no vending zone under the Scheme prepared in the year 2007. In this view, the prayer made by the petitioners that they be permitted to vend in the *verandah* of Regal Building, Connaught Place cannot be acceded to. However, this Court notes that certain other vendors who were carrying on their vending activities from the said zone have been relocated to other places. The NDMC has offered an alternative at Laxmi Bai Nagar Market, New Delhi to other vendors. We are of the view that similar option may be provided to the petitioners in the present case as well. In the event, the petitioners wish to avail this option, they would approach the concerned official [Deputy Director, Enforcement Department (North), NDMC] for further steps in this regard.

10. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MAY 14, 2024/r

Click here to check corrigendum, if any