



\$~19 & 5

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ W.P.(C) 8751/2017, CM APPLs. 35854/2017 & 14894/2021  
VISIBLE MEDIA .....Petitioner  
Through: Mr.Kapil Midha and Mr.Narender  
Singh, Advs.  
Mr.Sanjoy Ghosh, Sr.Adv with  
Mr.Farhat Jahan Rehmani and  
Mr.Rohan Mandal, Advs.

versus

NDMC & ANR .....Respondents  
Through: Mr.Srinarsha Peechara, SC with  
Ms.Harshita Gupta and Mr.Shubham  
Mishra, Advs for NDMC.

5  
+ W.P.(C) 8850/2020 & CM APPL 28439/2020  
DELHI WAQF BOARD .....Petitioner  
Through: Mr.Sanjoy Ghosh, Sr.Adv with  
Mr.Farhat Jahan Rehmani and  
Mr.Rohan Mandal, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL .....Respondent  
Through: Mr.Srinarsha Peechara, SC with  
Ms.Harshita Gupta and Mr.Shubham  
Mishra, Advs for NDMC.

**CORAM:**  
**HON'BLE MR. JUSTICE PURUSHAINdra KUMAR KAURAV**

**ORDER**

% **15.07.2024**

1. The petitioner in the instant writ petition seeks for the following  
reliefs:-



*"a) Allow the Writ Petition.*

*b) Issue a writ of certiorari or any other appropriate writ, order or direction thereby calling for the records relating to the impugned act dated 24/09/2017 of illegally removing the legally permitted unipole from the permitted site at Waqf land attached to Masjid and Nursery Pandara Road, New Delhi and attempting to remove the legally permitted advertising unipole installed at the permitted advertising site at Waqf Land attached to Dargah Shah Abdul Salaam, Opp. Marina Hotel, Connaught Place, New Delhi and examine the same and declare that the impugned action is unauthorised and illegal.*

*c) Issue a Writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondent No. 1 not to interfere in the re-installation of an Advertisement Unipole at Waqf land attached to Masjid and Nursery Pandara Road, New Delhi, which was illegally removed from the said site on 24/09/2017 without any authorisation.*

*d) Issue a writ of prohibition or any other appropriate writ, order or direction thereby restraining the Respondent No. 1 and their officials or anyone acting on their behalf from interfering or obstructing in any manner the advertisement through unipoles installed at*

*i. Waqf land attached to Dargah Shah Abdu Salam, Opp. Marina Hotel, Connaught Place, New Delhi,*

*ii. at Waqf Land attached to Masjid Aulia, Connaught Place, New Delhi and*

*iii. at Waqf land attached to Masjid and Nursery Pandara Road, New Delhi as a result of valid permission granted to the Petitioner for such advertisement*

*e) Issue a Writ of Mandamus or any other appropriate writ order or direction thereby directing the Respondent No. 1 to pay the Petitioner a sum of Rs. 9.50 Lakhs as compensation on account of damages and loss of business income suffered by the Petitioner due to the illegal removal of the advertisement unipole from advertising site at Waqf Land attached to Masjid and Nursery Pandara Road, New Delhi, on 24/09/2017."*

2. Shorn of unnecessary facts, it would be appropriate to take note of the permission dated 09.05.2016 which was granted by the respondent-New Delhi Municipal Council (NDMC) permitting the petitioner to install advertisement hoardings on the properties of the Delhi Waqf Board (DWB) in NDMC area.

3. Learned counsel appearing for the petitioner submits that the petitioner being an advertising agency has displayed advertisements at seven



sites of DWB. He, therefore submits that without there being any cause or show cause notice issued to the petitioner, the respondent-NDMC started creating hindrance in uninterrupted displaying of the advertisements. The petitioner, therefore, approached this Court for the aforesaid relief.

4. During the pendency of the instant petition, initially, on 26.09.2017, this Court passed the following order:-

**"W.P.(C) 8751/2017**

*Issue notice. Mr. Peechara, Ld. Standing Counsel for the respondent no. 1 accepts notice. Counter affidavit, as prayed, be filed within three weeks. Rejoinder, if any, may be filed, a week before the adjourned date. List before the Roster Bench on 26<sup>th</sup> October, 2017.*

**CM APPL. 35854/2017 (stav)**

*Issue notice. Mr. Peechara, Ld. Standing Counsel for the respondent no. 1 accepts notice. Reply may be filed within three weeks. Response, if any, may be filed, a week before the adjourned date.*

*It is not disputed that the respondent no. 1 had granted permission for displaying of advertisement on the Waqf property of the respondent no.2 vide communication dated 09.05.2016 in respect of the sites enumerated therein. It is the case of the petitioner that without issuing any Show Cause notice for any violation and without withdrawal of any permission, the respondent no.1 has started removing the advertisements displayed by the petitioner. Mr. Peechara submits that he has instructions from Director (Advertising) to state that till the adjournment date, the respondent no.1 shall maintain status quo in respect of the sites enumerated in the permission communication dated 09.05.2016. Respondent no.1 shall remain bound by the statement made by Mr. Peechara before this Court today.*

*List on the date fixed."*

5. Thereafter, the matter was listed on various dates and on 16.02.2018, following order was passed:-

**"C.M.No.6113/2018(for direction)**

*This is an application filed by the petitioner seeking directions to the respondents not to cause any hindrance to the petitioner in installation and display of advertisements on any of the seven sites enumerated in the permission letter dated 09.05.2016.*



*Learned counsel for the petitioner draws my attention to order dated 26.09.2017 passed by this Court wherein a categorical statement was recorded, on behalf of the respondents up on instructions from the Director(Advertising) that till the next date, respondent no.1 shall maintain status quo in respect of sites mentioned in the permission letter dated 09.05.2016.*

*Issue notice. Mr. Tarunvir Singh Khehar for respondent no.1 and Mr.Wajeeh Shafia, learned counsel for respondent no.2 accept notice. Mr.Khehar, learned counsel for respondent no.1 fairly submits that the respondents would remain bound by their undertaking given to this Court on 26.09.2017.*

*In view of the aforesaid categorical statement made by the learned counsel for the respondents that they would remain bound by the statement made on their behalf on 26.09.2017, the respondents are directed not to create any hindrance to the petitioner from installation and displaying advertisement on any of the seven sites.*

*Learned counsel for the respondent no.1, however, submits that he has instructions to state that the petitioner is not complying with the terms of the permission letter dated 09.05.2016 and is not paying the requisite amount payable as per the terms of allotment. The said statement is vehemently denied by learned counsel for the petitioner, without expressing any opinion on the rival submissions made by the parties, it is made clear that the respondents would be at liberty to take appropriate steps as per law and, if necessary, file an application before this Court.*

*The application stands disposed of.*

**W.P.(C) 8751/2017**

*List on 19.04.2018, the date already fixed."*

6. It is thus seen that the stay remained in operation and the respondent-NDMC stood restrained from taking any action for removal of the remaining advertisements in question.
7. It is discernible from the order dated 16.02.2018 that the respondent-NDMC raised objection with respect to non-payment of applicable charges as well.
8. Responding to the aforesaid contention raised by the respondent-NDMC, the petitioner draws the attention of the Court to the permission letter dated 09.05.2016, specifically to condition number '1' therein, which



reads as under:-

*"The percentage of Revenue sharing @ 50% shall be deposited in advance for each advertisement display in the municipal treasury based on Rule 9.1 of OAP 208 till the appropriate decision is taken by the Council with regards to exemption of revenue."*

9. The petitioner, therefore, submits that the owner of the property is DWB and the same has been making request for exemption of revenue for various reasons since beginning.

10. Learned senior counsel appearing for the petitioner in W.P.(C) 8850/2020 affirms the aforesaid submissions and he also reiterates that the show cause issued in W.P.(C) 8850/2020 is with respect to indecisiveness on exemption application submitted by DWB from time to time. He also points out that even the demand raised by the respondent-NDMC would be unsustainable so long as the application for exemption of revenue is decided by the respondent-NDMC.

11. Learned counsel for the respondent-NDMC submits that notwithstanding the decision taken on the application submitted by DWB, the petitioners are under an obligation to comply with condition no. '1' of permission dated 09.05.2016 and to continuously pay the percentage of revenue sharing as stipulated therein. According to him, the indecisiveness of the respondent-NDMC on the petitioner's application would not entitle the petitioner to not make the said payment. He further submits that till date nothing has been paid by the petitioner except for the initial payment.

12. Having considered the submissions made by learned counsel for the parties, it appears that the controversy involved in these matters is in narrow compass.

13. The first and foremost aspect which needs to be adjudicated is



whether the respondent-NDMC would be entitled to discontinue or restrain the petitioner from displaying the advertisement as was permitted *vide* permission letter dated 09.05.2016. It is thus seen that so long as the petitioner is in compliance with the condition dated 09.05.2016 or the said condition is itself modified or withdrawn, the respondent-NDMC cannot restrain the petitioner from displaying the advertisement on the site in question.

14. As of now, there is nothing on record to indicate that the permission letter dated 09.05.2016 has ever been modified or withdrawn. With respect to non-payment of the dues, as demanded by the respondent-NDMC, the respondent-NDMC will have to take necessary decision with respect to exemption prayed for by the DWB.

15. Needless to state that the exemption application will have to be considered on its own merit and depending upon the scope for exemption and other relevant factors.

16. The Court, at this stage, is not required to decide as to whether the petitioner is entitled for any exemption or otherwise. The Court would only expect the respondent-NDMC to decide the aforesaid aspect as early as possible.

17. In view of the aforesaid, the instant writ petitions are disposed of with the following terms and conditions:-

- (i) The respondent-NDMC is directed to decide the application submitted by the petitioner in W.P.(C) 8850/2020 seeking exemption as per condition '1'.
- (ii) Depending upon the decision in the aforesaid application, the petitioners would be under an obligation to comply with the



same.

- (iii) In case the petitioners violate the same, the respondent-NDMC would be entitled to take appropriate recourse in accordance with law.
- (iv) So long as there is a specific violation of permission granted on 09.05.2016 which has been firstly pointed out to the petitioner, the respondent-NDMC is restrained from disturbing the advertisement sites as existing today in terms of the aforesaid permission.
- (v) In case the respondent-NDMC feels that the petitioners are in violation of any of the terms of the aforesaid permission, it shall issue show cause notice to the petitioners and thereafter, take the matter to its logical end.
- (vi) Needless to state that the petitioners shall also maintain *status quo* with respect to the advertisement displayed as existing on date, however, the same shall remain subject to further decision to be taken by the respondent-NDMC.

18. With the aforesaid directions, the instant writ petitions, along with pending applications, stand disposed of.

**PURUSHAINDRA KUMAR KAURAV, J**

**JULY 15, 2024/MJ**