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

+ W.P.(C) 495/2025 and CM APPL. 2315/2025

HAWKERS SURKSHA FOUNDATIONPetitioner

Through: Mr. N.K. Sahu, Advocate

versus

UNION OF INDIA AND ORSRespondents

Through: Mr. Gaurav Mishra, Senior Panel
Counsel with Ms. Soumya Kapoor
and Mr. Atul Sharma, Advocates for
R1

Mr. Sriharsha Peechara, Standing
Counsel with Mr. Yoginder Handoo,
Additional Standing Counsel, Mr.
Ashwin Kataria and Ms. Bhanu D.S.,
Advocates for R-3

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

% **15.01.2025**

1. The instant writ petition under Articles 14, 19, 21 and 226 of the Constitution of India has been filed by the petitioner seeking following reliefs:

“(a) To issue a writ of mandamus under article 226 of Constitution of India or any appropriate writ or direction or order directing the respondents for extension of P.M.SAVAnidhi Scheme -20 within it territorial Jurisdiction of NDMC which expired on 31 December, 2024;

(b) And to pass such other and further order or orders as this Hon’ble court deem fit and proper in the interest of Justice.”



2. The petitioner is an NGO, namely, Hawkers Surkasha Foundation All India which has been espousing the cause of squatters and hawkers in different forums since the year 1986.

3. Learned counsel appearing on behalf of the petitioner submitted that the respondent No.1 launched a scheme i.e., Prime Minister Street Vendor's AtmaNirbhar Nidhi Scheme (hereinafter "the Scheme") in the year 2020 to provide a small credit facility to petty vendors/squatters who were engaged in carrying trade on footpaths in the urban areas. It is further submitted that for availing the credit facility, the local body has to recognize them as vendors/squatters working in its territorial jurisdiction and accordingly, it has to issue a Letter of Recommendation (hereinafter "LoR").

4. It is submitted that on 19th January, 2021, the Ministry of Housing & Urban Affairs issued a letter to the respondent No.3/NDMC apprising that it has been receiving grievances and complaints that the respondent No.3 is not implementing the Scheme in letter and spirit by limiting itself to the issuance of LoRs to the old *tehbazari* holders which is against the provisions of the Scheme.

5. It is submitted that the Scheme was to expire on 31st March, 2022 but it was extended till 31st December, 2024. It is further submitted that the petitioner being a representative of all the hawkers and vendors who have not approached the respondent No.3/NDMC within the time limit of expiry of the Scheme, prays for issuance of an appropriate order or directions to the concerned authority for the extension of the time limit of the Scheme, which has already expired on 31st December, 2024, in order to enable the said vendors and hawkers to claim benefits under the Scheme.



6. *Per contra*, the learned Senior Panel Counsel for respondent No.1/Union of India as well as the learned standing counsel for respondent No.3/NDMC who are appearing on advance notice vehemently opposed the instant petition by submitting that the petitioner has not approached this Court with clean hands. It is further submitted that the petitioner was registered in the year 2010 and has been praying for extension of the Scheme which has already expired on 31st December, 2024 without filing relevant documents or any letters received from individual hawkers and vendors who could not approach the concerned authority within the time limit of the expiry of the Scheme.

7. It is submitted that the decision of extension of time of the Scheme is a policy decision and as per the settled law, Courts should not interfere in the policy matters. It is further submitted that the instant petition is nothing but a gross misuse of process of law.

8. Therefore, it is prayed that the instant petition be dismissed with costs.

9. Heard learned counsel for the parties and perused the material placed on record.

10. Upon perusal of the contents of the instant petition and the material placed on record, it is not in dispute that the Scheme has already expired on 31st March, 2024. This Court finds force in the submissions advanced by the learned counsel for respondent No.1 and respondent No.3 that the decision of extension of any policy of the executive is a decision to be taken by the concerned authority. The Court cannot substitute its own conclusion with that of the executive merely because another view can possibly be taken and there has to be a concrete justification for any such decision by the Courts.



There is no justification or reasonable basis for the extension of the Scheme in the present case.

11. It is settled law on the issue of judicial review of policy decisions. In the case of ***Fertilizer Corporation Kamgar Union (Regd.), Sindri & Ors. V. Union of India & Ors., (1981) 1 SCC 568***, the Supreme Court held:

“35. A pragmatic approach to social justice compels us to interpret constitutional provisions, including those like Articles 32 and 226, with a view to see that effective policing of the corridors of power is carried out by the court until other ombudsman arrangements — a problem with which Parliament has been wrestling for too long — emerges. I have dwelt at a little length on this policy aspect and the court process because the learned Attorney-General challenged the petitioner's locus standi either qua worker or qua citizen to question in court the wrongdoings of the public sector although he maintained that what had been done by the Corporation was both bona fide and correct. We certainly agree that judicial interference with the administration cannot be meticulous in our Montesquien system of separation of powers. The court cannot usurp or abdicate, and the parameters of judicial review must be clearly defined and never exceeded. If the Directorate of a government company has acted fairly, even if it has faltered in its wisdom, the court cannot, as a super-auditor, take the Board of Directors to task. This function is limited to testing whether the administrative action has been fair and free from the taint of unreasonableness and has substantially complied with the norms of procedure set for it by rules of public administration.”

12. Similarly, in the case of ***Jacob Puliye v. Union of India & Ors., 2022 SCC OnLine SC 533***, the Court further settled the position of law on the issue of judicial review of policy decisions of the executive. The relevant portion of the judgment is reproduced below:

“21. We shall now proceed to analyse the precedents of this



Court on the ambit of judicial review of public policies relating to health. It is well settled that the Courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions of the executive unless the policy can be faulted on grounds of mala fide, unreasonableness, arbitrariness or unfairness etc. Indeed, arbitrariness, irrationality, perversity and mala fide will render the policy unconstitutional. It is neither within the domain of the courts nor the scope of judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are the courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical. Courts do not and cannot act as appellate authorities examining the correctness, suitability and appropriateness of a policy, nor are courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary.”

13. From the above said judgments, it is clear that the settled position of law on the issue of judicial review of policy decisions of the executive is that the Courts should ordinarily not interfere with such decisions unless the policy is unfair, unreasonable or arbitrary and Courts should not venture into determination of the appropriateness, correctness or suitability of the policy in question.

14. Further, as per the settled law, which was recently reiterated in the case of ***State of Maharashtra v. Bhagwan*, (2022) 4 SCC 193**, Courts should refrain from interfering with policy decisions, especially those having financial implications. The Courts should leave such decisions to the



concerned authorities or expert bodies, and should only interfere in exceptional circumstances to ensure that there are no adverse financial consequences of its intervention to the executive. The present case is regarding extension of the time limit of the Scheme, which involves financial implications for the executive and therefore, the Court should not interfere in the present case in the absence of strong grounds to warrant intervention.

15. This Court finds no reasonable or justifiable grounds for interference with the policy decision to effect extension of the Scheme. This Court is not satisfied that there are cogent grounds in the instant petition for the issuance of writ of mandamus or other directions to the respondents particularly as the subject matter is related to a policy decision which is to be decided by the concerned authority.

16. In view of the settled law and taking into consideration the aforesaid facts and circumstances, this Court does not find any merit in the instant writ petition and accordingly, the present petition along with pending applications, if any, stands dismissed.

CHANDRA DHARI SINGH, J

MANOJ JAIN, J

JANUARY 15, 2025

Rt/st

Click here to check corrigendum, if any