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

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Date of Decision : 31.01.2025

+ **W.P.(C) 1237/2025**

UMA

.....Petitioner

Through: Mr N.K. Sahu, Advocate.

versus

NEW-DELHI MUNICIPAL COUNCIL AND ANR.....Respondents

Through: Mr Mananjay Mishra, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

VIBHU BAKHRU, J. (ORAL)

1. Issue notice.
2. The learned counsel for the respondents accepts notice.
3. The petitioner has filed the present petition praying for a direction to substitute her as a legal heir in place of her deceased husband Kirti Kumar, son of Late Mulchand, in respect of his place of squatting at Gate No.4 described as Gate No.3 & 4, Palika Bazar, Connaught Place, New Delhi-1.
4. The petitioner claims that she has a bench mark disability of 66% and has been carrying on vending activities near Gate No.4, Palika Bazar, Connaught Place, New Delhi. She submits that her husband, since deceased, was suffering from a bench mark disability of 90% and was carrying on the trade at the same site since 1985. The petitioner had also been assisting him in carrying on his activities.



5. It is also stated that the name of the petitioner's husband finds mention in the list of 628 persons who were found eligible for allotment of *tehbazari* spaces by draw of lots in the year 2012. The petitioner also states that her husband was permitted by an order dated 01.06.2011 passed in Writ Petition No.3705/2011, to squat at the site near Gate No.4, Palika Bazar. The said order is not on record and the learned counsel appearing for NDMC does not accept the said contention.

6. The petitioner essentially claims that she be granted the same rights as were available to her deceased husband.

7. This court had in a case of ***Kishwari Begam v. New Delhi Municipal Council: 2024:DHC:6871-DB*** had considered the similar controversy and had directed that the petitioner in that case, would be entitled to exercise the same rights as her deceased husband under Rule 13 of the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017 and would also be accorded the same seniority as her deceased husband in terms of paragraph 3.3 of the Government of National Capital Territory of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019. The relevant extract of the said order is set out below:

“8. Mr. Sahoo, learned counsel appearing for the petitioner has drawn the attention of this Court to Rule 13 of the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017 (hereafter *the Vending Rules*) and has stated that all the street vendors whose name find mention in the list prepared by the Chopra Committee and Thareja Committee would be entitled to participate in the elections for the first Town Vending Committee (hereafter *TVC*).

9. He submits that by virtue of Rule 13 of the Vending Rules, the petitioner's deceased husband had a right to participate in the elections. He submits that the petitioner being a sole legal heir of her



deceased husband ought to be entitled to exercise the said right. In addition, Mr. Sahoo also referred to Para 3.3 of the Government of National Capital Territory of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019 (hereafter *Scheme*) which sets out the criteria for issuing certificate of vending (COV) for street vendors. Para 3.3 of the said scheme is set out below:-

“3.3 The criteria for issuing certificate of vending to street vendors

(3.3.1) The certificate of vending shall be issued to a registered street vendor in compliance with Section 2.1.1.

(3.3.2) The allotment of vending space shall be subject to demarcation of vending zones pursuant to Section 8.5, available vacancies on time-sharing basis and holding capacity.

(3.3.3) In case the number of applicants exceeds the available number of vending spaces determined, or exceeds 2.5% of the total population, the allotment will be made by seniority, that is, based on descending order of duration of vending activities at the current site, subject to categorical reservations described in Section 6.2. For a single vending site, allotment amongst the registered street vendors shall be made by draw of lots in case of oversubscription.

(3.3.4) The preference shall be given to Persons with Disability and Women in accordance with Section 6.2.

(3.3.5) The vendors who could not be issued COY as per their first choice shall be accommodated, subject to availability, from a list of locations ranked in order of vendor preference, to avoid non- issuance altogether.

(3.3.6) Not more than one member of a family (consisting of spouse and dependent children) be given a Certificate of vending.

(3.3.7) The area/street where temporary vending is to take place will be notified by the TYC as outlined in Chapter 8.

(3.3.8) Categorization, demarcation and holding capacity of



vending zones shall be decided by the Local Body in consultation with the TVC as outlined in Chapter 8.

(3.3.9) A Certificate of Vending will be subject to limited renewal in accordance with Chapter 4.

(3.3.10) The Local Body shall maintain an updated waiting list for oversubscribed vending zones for consideration in case of future availability of holding capacity. Such a waiting list shall be made available to applicants online.”

10. It is submitted that the petitioner being the sole legal heir of her deceased husband is also entitled to be accorded some seniority for the purpose of allocation of vending spaces. He also relies on Section 5(2) of the Street Vendors Act which reads as under:-

“5. (2) Where a street vendor to whom a certificate of vending is issued dies or suffers from any permanent disability or is ill, one of his family member in following order of priority, may vend in his place, till the validity of the certificate of vending—

(a) spouse of the street vendor;

(b) dependent child of the street vendor:

Provided that where a dispute arises as to who is entitled to vend in the place of the vendor, the matter shall be decided by the committee under section 20.”

11. In the present case, the petitioner’s deceased husband had not been issued any COV under the Street Vendors Act. However, there is no dispute if such a certificate had been issued, the petitioner would be entitled to have her name included in the COV in place of her deceased husband, as his widow.

12. Although, the petitioner’s deceased husband had not been issued any COV, we are of the view that the same benefit ought to be made available to the petitioner as well. The petitioner cannot be prejudiced by the delay in issuance of COV or implementation of the Street Vendors Act. Consequently, we find merit in Mr. Sahoo’s contentions that the petitioner would have the right to participate in the elections of the TVC in place of her deceased husband as stipulated under Rules 13 of the Vending Rules.

13. There is also no cavil with Mr. Sahoo’s contention that, once the petitioner’s claim is verified, she would also be accorded the benefit of the criteria for allocation of *tehbazari* license as stipulated



under paragraph 3.3 of the Scheme.

14. In view of the above, we consider it apposite to dispose of the present petition by directing that the petitioner would be entitled to exercise the same rights as her deceased husband was under Rule 13 of the Vending Rules and would be accorded the benefit of seniority as her deceased husband would have been entitled to in terms of paragraph 3.3 of the Scheme, if he was alive, at an appropriate stage.

15. The present petition is disposed of in the above terms.”

8. The relief sought by the petitioner in this case is somewhat similar to the relief as sought by Kishwari Begum in the aforementioned decision. We think it apposite to dispose of the present petition with the similar directions. The petitioner would be entitled to exercise the same rights as her deceased husband was in terms of Rule 13 of the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017 and would also be accorded the same seniority as her deceased husband would be entitled to in terms of paragraph 3.3 of the Government of National Capital Territory of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019. We, however, clarify that this would be subject to the NDMC verifying the material facts as asserted by the petitioner namely that her husband was carrying on vending activities since the year 1985 and the petitioner is the sole legal heir of her deceased husband. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

TUSHAR RAO GEDELA, J

JANUARY 31, 2025/tr

Click here to check corrigendum, if any