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

+ W.P.(C) 3225/2024 & CM APPL. 13273/2024

AKASH DEEP MAINTENANCE COMMITTEEPetitioner

Through: Mr. N. K. Jha, Advocate
(M:9810720069)

versus

NEW DELHI MUNICIPAL COUNCIL & ORS.Respondents

Through: Mr. Asheesh Kumar Mishra, ASC-
NDMC (M:9311072008)

+ W.P.(C) 3258/2024 & CM APPL. 13427/2024

AKASH DEEP MAINTENANCE COMMITTEEPetitioner

Through: Mr. N. K. Jha, Advocate
(M:9810720069)

versus

NEW DELHI MUNICIPAL COUNCIL & ORS.Respondents

Through: Mr. Chetanya Puri, SPC with Mr.
Anand Awasthi, Advocate for Delhi
Police (M:8285536218)
Mr. Asheesh Kumar Mishra, ASC-
NDMC (M:9311072008)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
10.10.2025

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1. The present petitions have been filed seeking directions to respondent nos. 1 to 3, to take action upon the representation of the petitioner against



the respondent no. 4 and thereby, stop respondent no. 4 from unauthorizedly putting his goods/garbage and dealing in scrap business in the open, adjacent to the entrance gate of *Akash Deep Building, 26-A, Barakhamba Road, New Delhi-110001*.

2. The premise of filing the petition, being W.P.(C) 3258/2024, was that respondent no. 4 herein had illegally, and without obtaining any authorization or license, had installed and was running an illegal tea stall and snack vending unit, adjacent to the entrance gate of the *Akash Deep Building, 26-A, Barakhamba Road, New Delhi-110001*.

3. A counter affidavit has been filed on behalf of the New Delhi Municipal Council ("NDMC"), relevant portions of which, are reproduced as under:

"xxx xxx xxx

6. That the respondent during their routine inspection carried out on 04.11.23 noticed that tea vendor Mr. Raju again found at the site in question despite removal him on 18.10.2023, for which he alongwith his goods was immediately removed from the site on 04.11.2023 by taking action of the answering respondent. However, it was observed that the said tea vendor Mr.Raju was stubborn and had already been tried to sit there despite removal him alongwith his belongs from the site. Hence, to stop his recurring habit, on 08.11.2023, answering respondent wrote a



letter to SHO barakhamba Road, New Delhi, for taking appropriate action against Mr. Raju. Copy of the said letter was also marked to Sh. Vivek Kumar, Estate Manager, Akash Deep Maintenance Committee at Ground Floor, 26A, Barakhamba Road, New Delhi. Copy the letter dated 08.11.2023 is **Annexure-R/1** hereto.

7. That it is further submitted that, after writing up to SHO Barakhamba Road, on 04.12.2023, respondent again conducted inspection on the site in question to ascertain the factual position on the ground whether tea vender Mr. Raju is in existence or not. During inspection, Mr. Raju was again found on the site, for which respondent immediately has taken action by removing him from the site and also confiscated his goods. It seems that Respondent No. 3 has not taken any action against the said Tea vender despite requesting them vide letter 08.11.2023.
8. Subsequently, on 12.12.2023 Mr. Vivek Kumar, Estate Manager of petitioner Society sent another complaint reiterating his request for the removal of Mr. Raju (Tea Vendor) from the site. After taking action on the said complaint, the petitioner Mr. Vivek Kumar has been



requested through respondent's office letter dt. 20.12.2023 to approach Delhi Police and file FIR against the such encroachers under relevant provision of IPC and if any assistance is required, being local body the same shall be provided by the respondent to the petitioner. A copy of letter dated 20.12.2023 sent to Mr.Vivek is **Annexure-R/2** hereto.

9. Furtherance to above, it is submitted that, due to non-action by respondent no.3 (SHO- Barakhamaba Road) the respondent deployed their staff for checking of the site in question twice a day whether Mr. Raju Tea vender is in existence at site or not and if found, should be removed immediately. Recently, the site in question has been cleared. Copy of the photographs clicked on 22.04.2024 are attached hereto **Annexure-R/3.**

10. Further, it is submitted that it is not possible to the answering respondent to deployed/stand their staff in a particular location for all the day because the respondent has also been looking after the administration work which has to be attended on daily basis with other field works. However, it is a statutory duty of respondent no.3 to control such



infiltration to maintain the law and order situation. From the above it is clear that respondent (Enforcement Department, NDMC) has already been taken requisite action time to time against the encroachers/vendors and is still ready to perform their duty as they are empowered under the Act.

11. Therefore, it is most respectfully prayed that in view of the submission and the facts stated as above the present writ petition is not maintainable and is liable to be dismissed against the answering respondent no.1 & 2 as the facts and law does not support the case of the petitioner. The present petition is an abuse of the process of court, and the same is liable to be dismissed with costs.

4. Further, Status Report has also been filed on behalf of the Station House Officer ("SHO"), Police Station-Barakhamba Road in W.P.(C) 3258/2024, which reads as under:



STATUS REPORT

Most respectfully showeth:-

It is submitted that on 25.09.2023 a complaint was received at PS Barakhamba Road from the complainant Sh. Vivek Kumar, Estate Manager, Akash Deep Maintenance Committee, Barakhamba Road, New Delhi in which complainant had alleged that one person namely Raju is illegally, unauthorizedly and without any license is operating a tea stall and snack vending unit in the open, adjacent to the entrance gate of Akash Deep Building, Barakhamba Road, New Delhi which fills the air with foul smell and is a serious health hazardous for all people living there.

Thereafter enquiry was conducted on the above complaint and FIR vide no. 135/2023, dated 21.10.2023, U/s 283 IPC was lodged against Nazrul Islam @ Raju who was operating the tea stall. The alleged along with his goods was removed from near the Akash Deep Building, Barakhamba Road, New Delhi by the Enforcement Department, NDMC. Chargesheet was submitted in the court on 20.12.2023 and the accused person was convicted with a fine of Rs. 200/-.

Beat and patrolling staff is regularly conducting the patrolling in the area near the Akash Deep Building, Barakhamba Road to prevent such incidents in future. At present the accused street vendor Nazrul Islam @ Raju is not present near the Akash Deep Building, Barakhamba Road, New Delhi and also the patrolling staff has been asked to remain more vigilant in the area.

30.04.25
Station House Officer,
PS Barakhamba Road
New Delhi



5. Perusal of the aforesaid counter affidavit and Status Report filed on behalf of the NDMC and SHO, Police Station-Barakhamba Road, respectively clearly show that the encroachment in the form of the tea stall, has already been removed by the concerned authorities. Further, the beat and patrolling staff is regularly patrolling in the area near *Akash Deep Building, 26-A, Barakhamba Road* to prevent any incident in the future.
6. Likewise, in *W.P.(C) 3225/2024*, the petition had been filed for removing and stopping the respondent no. 4, i.e., Mr. Deepak in *W.P.(C) 3225/2024*, from unauthorizedly putting goods/garbage and dealing in scrap business in the open, adjacent to the entrance gate of the *Akash Deep Building, 26-A, Barakhamba Road, New Delhi-110001*.
7. Counter affidavit has been filed on behalf of NDMC in *W.P.(C) 3225/2024* also, relevant portions of which, read as under:

“xxx xxx xxx

4. That the respondent submits, that the action for removal of unauthorized vendors/squatters is a routine exercise which has been undertaken by the Enforcement Department under section 225 and 226 of the NDMC Act 1994 on daily basis to prevent/remove the infiltration/encroachment on commercial/public places, streets or upon any open area, specifically fall under territorial jurisdiction of New Delhi Municipal Council alongwith relevant provision of the Street Vendor Act, 2014.



5. The petitioner's complaint (27.09.2023) through its Estate Manager Mr.Vivek, received to the respondent, and the same has been attended by taking removal action of Mr. Deepak (Scrap Dealer) on 06.10.2023 in front of the petitioner's building Akashdeep at Barakhamba Road, New Delhi-110001. Thereafter, petitioner thru Mr.Vivek Sharma has sent another complaint dt 30.10.2023 on the said complaint an action was again taken on 18.10.2023 and a warning was directed to respondent no. 4/scrap person for not to sit at the site for vending their goods again in future at the entrance gate of Akashdeep Building at Barakhamba Road.
6. That the respondent during their routine inspection carried out on 04.11.23 noticed that Scrap Dealer Mr.Deepak again found at the site in question despite removal him on 18.10.2023, for which he alongwith his goods was immediately removed from the site on 04.11.2023 by taking action of the answering respondent. However, it was observed that the said scrap dealer Mr. Deepak was stubborn and had already been tried to sit there despite removal him alongwith his belongs from the site. Hence, to stop his recurring habit, on 08.11.2023, answering respondent wrote a letter to SHO barakhamba Road, New Delhi, for taking appropriate action against Mr. Deepak. Copy of the said letter was also marked to Sh. Vivek Kumar, Estate Manager, Akash Deep Maintenance Committee at Ground Floor, 26A, Barakhamba Road, New Delhi. Copy the letter dated 08.11.2023 is **Annexure-R/1** hereto.



7. That it is further submitted that, after writing up to SHO Barakhamba Road, on 04.12.2023, respondent again conducted inspection on the site in question to ascertain the factual position on the ground whether scrap dealer Mr.Deepak is in existence or not. During inspection, Mr.Deepak was again found on the site, for which respondent immediately has taken action by removing him from the site and also confiscated his goods. It seems that Respondent No. 3 has not taken any action against the said Scrap Dealer despite requesting them vide letter 08.11.2023.
8. Subsequently, on 12.12.2023 Mr. Vivek Kumar, Estate Manager of petitioner Society sent another complaint reiterating his request for the removal of Mr. Deepak (Scrap Dealer) from the site. After taking action on the said complaint, the petitioner Mr.Vivek Kumar has been requested through respondent's office letter dt. 20.12.2023 to approach Delhi Police and file FIR against the such encroachers under relevant provision of IPC and if any assistance is required, being local body the same shall be provided by the respondent to the petitioner. A copy of letter dated 20.12.2023 sent to Mr.Vivek is **Annexure-R/2** hereto.



9. Furtherance to above, it is submitted that, due to non-action by respondent no.3 (SHO- Barakhamba Road) the respondent deployed their staff for checking of the site in question twice a day whether Mr. Deepak (Scrap Dealer) is in existence at site or not and if found, should be removed immediately. Recently, the site in question has been cleared. Copy of the photographs clicked on 20.04.2024 are attached hereto **Annexure-R/3**.

xxx xxx xxx”

8. Perusal of the aforesaid counter affidavit of NDMC manifests that requisite action for removal of the encroachment by the scrap dealer, has been duly undertaken.

9. Learned counsel appearing for the petitioner confirms the fact that comprehensive action has been taken and both the encroachments have been removed.

10. However, SHO, Police Station-Barakhamba Road is held bound to ensure that no such incident of encroachment/unauthorized construction occurs in the future.

11. With the aforesaid directions, the present writ petitions, along with pending applications, are disposed of.

MINI PUSHKARNA, J

OCTOBER 10, 2025/au