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

+ CONT.CAS(C) 518/2023 CM APPL. 13987/2024 CM APPL.
30896/2024 CM APPL. 52310/2024

MRS. YASHODA DEVI

.....Petitioner

Through: Mr. K.C. Aggarwal, Adv. (thru VC)

versus

MR. RAJPAL SINGH & ORS.

.....Respondent

Through: Ms. Beenashaw Soni, SC for MCD
with Ms. Ann Joseph, Adv.
Mr. Sanjay Singh & Mr. Awdesb
Kumar, Advs. for R-6

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
18.03.2025

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1. Pursuant to the previous order dated 9th September 2024, petitioner who is an old lady, is present before this Court along with her son *Santosh Kumar* and is assisted by her counsel, Mr. K.C. Aggarwal, who appears through VC.
2. Counsel for petitioner states that for the last about 35 to 40 years, petitioner has been vending behind *Shop Nos. 1 & 2, C Block market, East of Kailash*, on the side lines of *Raja Dheer Sen Marg*.
3. It is contended that petitioner has been continuously harassed by MCD officials at the behest of the owner of Shop no.1, 2 and 3 (*respondent no. 7*).
4. The order in question for contempt is dated 8th February 2023 passed



in **W.P. (C) 1596/2023** by the Division Bench of this Court.

5. It is recorded in the said order as under:

Although, the present petition has been instituted under Article 226 of the Constitution of India read with Article 14, 19 and 21, by Mrs. Yashoda Devi, the petitioner herein, praying as follows:

I. Against Respondent No. 1 in the nature of Prohibition thereby restraining the respondent and its officials from taking any precipitate, illegal, discriminatory, mala fide, targeted, action including removal of petitioner from her vending place behind shop no. 1,2 and 3 C Block Market, East of Kailash,

II. Against Respondent No. 1, in the nature of Mandamus thereby directing the Respondent and officials working under it to re-erect/reconstruct in a time bound manner, the wall separating the C-Block Market, East of Kailash from Raja Dheer Sen Marg and bring the ground situation in conformity with approved lay out plan;

III. Against Respondent No.1 in the nature of certiorari whereby to quash action planned to be taken in C Block East of Kailash on or before 6th Jan 2023 or prior to any action prepared as per law and policy that may be decided by newly elected setup which takes over the Municipal Governance after recent elections;

IV. Against Respondent No. 5, in the nature of Mandamus thereby directing it to take appropriate action as per law to ensure that medicines shops of Respondent No. 3 and 4 are not allowed to run in violation of sanction plan and building bye laws and unless illegal openings on Raja Dheer Sen Marg are closed;

V. Pass such further orders as maybe considered just and appropriate in the facts and circumstances of the case."

However, learned counsel appearing on behalf of the petitioner limits the relief to a direction to the Municipal Corporation of Delhi to permit her to continue to vend without impediment or hindrance in accordance with the terms and conditions of the vending certificate dated 06.11.2021, issued to her, which is annexed as Annexure P-1.

Learned counsel appearing on behalf of Municipal Corporation of Delhi, on advance notice states that they will permit Mrs. Yashoda Devi to vend at Central Zone, Ward S-89, in terms of the said certificate, however, strictly in accordance with the terms and conditions stipulated therein.

Directed accordingly.

The petitioner prays for and is granted leave to approach the appropriate authorities in accordance with law in relation to prayer Clause II and IV.

Leave and liberty granted.

The petition is disposed of accordingly.



6. Status report has been filed by the Standing Counsel for MCD and she states that the '*Certificate of Vending*' ('CoV') of petitioner, in particular, Clause 11 of the same, prevents her from being stationed at a particular place. Clause 11 of the vending certificate, reads as under:

“The mobile vendor will stay upto 30 minutes for vending at any hawking/ vending zone or as decided by the Town Vending.”

7. She further states that MCD cannot permit violations of CoV and there is no *animus* against the petitioner, in particular.

8. She draws attention to the photographs appended with the status report to show that petitioner has set up her vending unit at a particular place and therefore, objection has been taken by MCD officials.

9. Petitioner's counsel however states that order dated 8th February 2023 was passed on the basis that petitioner was vending on a stationary/ particular spot for the last 40 years and therefore, protection was given.

10. In the opinion of this Court, Order dated 8th February 2023 merely states that petitioner will be permitted to continue to vend without any hindrance, in accordance with terms and conditions of CoV dated 6th November 2021.

11. Considering the conditions as contained in CoV, petitioner is at liberty to approach the Roster Bench and seek clarification in ***W.P. (C) 1596/2023***, for his purpose.

12. In the meantime, petitioner shall continue to comply with terms and conditions of CoV.

13. It is however directed that considering the advanced age of petitioner, there will be no unnecessary harassment meted out to her either by MCD officials or by respondent no.7, in any manner whatsoever.



14. Counsel for petitioner states that respondent no.7 has installed a camera in order to record the going-ons, at the petitioner's vending site, as and when she is present there.

15. Counsel for respondent no.7, on instructions, undertakes that camera, if any, was for security purposes and will not invade the privacy of petitioner as and when she is present at her vending site. Respondent no. 7 shall remain bound by this undertaking.

16. This petition is disposed of with above directions, with liberty to petitioner, as noted above.

17. Pending applications are disposed of as infructuous.

18. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MARCH 18, 2025/sm/kp