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

+ **W.P.(C) 13601/2023, CM APPL. 53692/2023**

MOHD SULEMANPetitioner

Through: Appearance not given

versus

GNCT OF DELHI & ORS.Respondents

Through: Mr. Prakhyat Gargasya, Adv. for
Mr. Divyam Nandrajog, Panel
Counsel for R-1.
Ms. Shilpa Ohri, ASC for R-2.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

% **21.01.2025**

CM APPL. 53692/2023 (exemption)

1. Allowed, subject to just exceptions.
2. Application stands disposed of.

W.P.(C) 13601/2023

3. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

“a. Issue a Writ of Mandamus or any other Writ directing the Respondent No.2, 3 & 4 to remove the encroachments and unauthorized construction, illegal hawking in no-hawking zone at Heritage Road, Esplande Road, Mother Dairy Booth, Parade Ground, Chandni Chowk, New Delhi.

b. Pass any other direction this Hon 'ble Court deems fit and proper in the present facts and circumstances of the case.”

4. Learned counsel appearing on behalf of the petitioner submitted that the petitioner was allotted a shop bearing no. 1 at Esplande Road,



Near Mother Diary Booth, Parade Ground, Heritage Road, Chandini Chowk, New Delhi – 110006 (hereinafter as the “allotment site”) by the respondent no. 2 on 15th February, 1980 and since then the petitioner has been in lawful possession of the same. However, it is submitted that the petitioner has been facing difficulties with respect to his business due to the illegal encroachers and hawkers, who have established their encroachment near the allotment site.

5. It is submitted that the Hon’ble Supreme Court as well as this Court has time and again passed directions to respondent no. 2 and 3 to remove the illegal encroachers and hawkers from Chandini Chowk, Delhi as the said place is declared as a no-hawking zone. Despite the said directions, no action with respect to the same was taken by the respondent no. 2 and 3.

6. It is submitted that the petitioner has made innumerable representations before respondent no. 4 i.e., on 20th June, 2022, 27th June, 2022, 5th July, 2022 and 19th July, 2022, yet no serious effort was taken by the respondent no. 3 in removing the illegal encroachers and hawkers, thereby not paying heed to the directions passed by the Hon’ble Supreme Court to that effect.

7. It is submitted that due to the inaction of the respondent no. 3, the petitioner filed a Writ Petition bearing no. 16072/2022, wherein this Court disposed of the petition vide order dated 11th January, 2023, thereby directing the respondent no. 2 and 3 to consider the representation of the petitioner and take appropriate action in accordance with law.

8. It is further submitted that in light of the directions passed by this Court vide order dated 11th January, 2023, the petitioner has filed



multiple representation before the respondent no.3, however, the respondents neither complied with the aforesaid order nor any action was taken to remove the illegal encroachers from the allotment site, which is a non-hawking zone.

9. It is also submitted that despite the directions issued by the Hon'ble Supreme Court and this Court, unauthorized hawkers and encroachers continue to carry out illegal vending activities at the designated non-vending sites, as evident from the photographs annexed as Annexure-10 with the instant petition.

10. It is further submitted that the concerned authorities have failed to fulfill their duty and implement the orders effectively, thereby, allowing the illegal vendors to persist in their activities in violation of the Court's directions.

11. Therefore, in view of the foregoing submissions, it is prayed that the respondent no. 2, 3 and 4 may be directed to remove the illegal encroachers and hawkers from the allotment site, which is declared as a no-hawking zone.

12. *Per Contra*, learned counsel for the respondents submitted that the status report dated 21st January, 2025 was filed regarding the actions taken by the concerned authorities of respondents. It is submitted that the respondent no. 2 has been conducting regular encroachment removal drives to clear the unauthorized vendors in allotment site and that temporary encroachment, including goods found therein, were removed from the said area. It is further submitted, on instructions, that all the directions passed by the Hon'ble Supreme Court shall be duly complied with.



13. Heard the learned counsel appearing on behalf of the parties and perused the material placed on record.

14. While considering the main grievance of the petitioner *qua* the unauthorized activities and encroachment near the allotment site, this Court has perused the material placed on the record and it is observed that the said area has already been declared as a no hawking zone, as per Annexure-4 filed to the instant petition. Despite the same, the unauthorized hawking/vending is continuing rampantly as is apparent from the photographs placed by the petitioner on record.

15. Record further reveals that the Hon'ble Supreme Court as well as this Court has passed various orders time and again, wherein, the Courts have passed directions to the respondents herein to remove unauthorized activities and encroachments by the unauthorized hawkers in the aforesaid area. There is no doubt that the respondents have not complied with the directions issued to it on various occasions, especially the directions passed by this Court vide order dated 11th January, 2023.

16. At this juncture, the learned counsel for the respondents, upon being queried, submitted that the concerned authorities have initiated appropriate actions to remove unauthorized vendors/hawkers from the declared non-hawking sites in the Chandini Chowk area. They are giving their undertaking to fix CCTV cameras at the concerned site and notice boards, thereby, notifying the hawking/no-hawking zones in the aforesaid area. It has also been undertaken that an MCD personnel along with the beat officer of the area concerned will be deployed from 10:00 AM to 8:00 PM to ensure the continuous enforcement of the Court's directions and prevent unauthorized vending/hawking and encroachment in the



aforesaid area.

17. It has been further undertaken that if unauthorized vending/hawking is found at the said site again, the aforesaid designated officers from the MCD and the police shall be held personally accountable, and departmental action will be initiated against them.

18. At this stage, learned counsel appearing on behalf of the petitioner, on instructions, submitted that he has no objection to the undertaking given by the learned counsel for the respondents, and the instant petition may be disposed of in view of the same.

19. After hearing the learned counsel for the parties, including the statement and undertaking given by the learned counsel for the respondents, this Court finds no reason to disbelieve the said undertaking.

20. In view of the aforesaid discussions of facts, undertaking given by the learned counsel for the respondents and the no objection given by the learned counsel appearing on behalf of the petitioner, following directions are passed by this Court:

- a. The SHO, Kotwali and the concerned Assistant Commissioner, Municipal Corporation of Delhi, are directed to fix CCTV cameras and notice boards, thereby, notifying the hawking/no-hawking zones at Esplande Road, Near Mother Diary Booth, Parade Ground, Heritage Road, Chandini Chowk, New Delhi – 110006
- b. The SHO concerned and the concerned Assistant Commissioner, Municipal Corporation of Delhi are directed to deploy one beat officer and one MCD personnel respectively from 10:00 AM to 8:00 PM daily in the aforesaid area who will be responsible for ensuring that no unauthorized hawking/vending is carried out on



the sites that have already been declared as non-vending /hawking zones.

- c. Additionally, the aforesaid officers are directed to ensure strict compliance of the undertaking given by them failing which they shall be held personally liable and appropriate departmental proceedings shall be initiated against them.

21. In view of the aforesaid terms, the instant writ petition stand disposed of along with the pending applications, if any.

CHANDRA DHARI SINGH, J.

ANOOP KUMAR MENDIRATTA, J.

JANUARY 21, 2025

R/mk

Click here to check corrigendum, if any