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

+ **W.P.(C) 3095/2024 & CM APPL. 50082/2024**

AZADPUR TRANSPORT CENTRE ASSOCIATION (REGD.)

.....Petitioner

Through: Appearance not given.

versus

GOVERNMENT OF NCT OF DELHI & ORS.

.....Respondent

Through: Mrs Avnish Ahlawat SC GNCTD
Services, Mr Nitesh Kumar Singh, Ms
Aliza Alam, Mr Mohnish Sehrawat,
Advts.

Mr. Vikas Chopra Standing counsel
MCD and Mr Neeraj Kumar
Advocate for MCD.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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03.02.2026

1. The petition is for the following reliefs:

“a) Allow the present petition and Issue writ of mandamus or any other writ or directions thereby directing the Respondent no.6 to demolish and remove illegal wall i.e. Site No.1 constructed on encroached public road/land as shown in the Site Plan which is causing obstruction and blocking right to way of general public and to further ensure and restore a free public movement and to restore the original road/passage as per sanctioned lay out plan, and;

b) Allow the present petition and Issue writ of mandamus or any other writ or directions thereby directing the respondent no.6 to not to construct the wall or any other obstacle, cause any hindrance on Site No.1 i.e. encroached public land as shown in the Site Plan, in future, which is a public passage and way without following the due process of law, and;

c) Allow the present petition and Issue writ of mandamus or any other writ



or directions thereby declaring site in question i.e. Site No. 1, 2 and 3 as shown in the site plan as public passage meant for free and fair movement of general public and can not be encroached upon by anyone and to restore the same to its original position, and;

d) Allow the present petition and Issue writ of mandamus or any other writ or directions thereby directing respondent no.6 to remove illegally constructed "Onion Shed" so as to ensure absolute and free movement of members of petitioner society and general public at large, and;

e) Allow the present petition and Issue writ of mandamus or any other writ or directions thereby directing respondent no.6 to remove illegally usurped, illegally occupy and encroached upon "idle parking" space lying on DDA Land as shown in the lay out plan in front of shops of members of petitioner society so as to restore rights and pride of petitioner, and;"

2. The response filed by respondent no.6 would indicate the following facts and circumstances, which would justify the direction of the wall in question:

"That the relevant fact for the just decision in the matter are as follows:

(i) Vide email dated 22.11.2023 received from Department of Environment extract of order under action no. 196 dated 31.10.2023 of NHRC was enclosed and information as sought for by the NHRC was to be provided by 22.11.2023 as the matter was listed on 30.11.2023. Copy of the email and trailing emails with the extract order is enclosed as **Annexure R-1**.

(ii) Under the heading of Joint Inspection of Railway Lines in Delhi Region where the report submitted to the Commission suggested that the situation is very grim and there were huge piles of legacy waste in several places. The NHRC team also made the following observations/suggestions:

"The relevant paragraphs as applicable to AP11C Azadpur are as under: 3. The active involvement of the Delhi Urban Shelter Improvement Board (DUSIB) and the Azadpur Sabzi Mandi Committee was emphasized for ensuring and maintaining cleanliness on railway land.

6. The Azadpur (Subzi Mandi) stretch was heavily encroached upon by residents on both sides, hindering cleaning efforts. A substantial amount of waste, approximately 500 metric tonne, was reported in the Azadpur to Badli Area.

9. The area on the right of Kela Mandi was found to be unclean."

(iii) That pointwise reply with respect to para 3 and 9 was submitted by the deponent on 29.11.2023 to Dr. Chetna Anand, Sr. Scientific Officer, Department of Environment, GNCTD, Delhi Secretariat, New Delhi. Copy of the report is enclosed as **Annexure R-2**.

(iv) Vide letter dated 09.01.2024 received from Office of the Chief



Engineer HQ-II, MCD and in this letter order of 30.11.2023 was reproduced, which reads as follows:

"The APMC should ensure erecting, fencing and walls, to set up waste management facilities, including a plant inside the Mandi and other Fish and Poultry Market to effectively handle excessive waste. The APMC should also handover its garbage to the MCD at the identified spots and should ensure that no garbage /wastage thrown on the Railway Tracks/land. APMC should also provide logistic support to MCD and help them in maintaining cleanliness in these areas."

Copy of the letter is annexed as **Annexure R-3**.

(v) That vide letter dated 12.01.2024 the deponent submitted the complete information to Chief Engineer, MCD pointing out to him that APMC Azadpur Market Yard is having the boundary wall about 15 ft. height all along the Railway Track therefore, it is not possible to throw any waste towards the Railway line. On other issues also the specific reply was submitted. Copy of the letter is annexed as **Annexure R-4**.

(vi) Vide an email dated 16.01.2024 received from Spl. Secretary, Department of Environment, GNCTD-cum-Member Secretary, Delhi Pollution Control Committee, NHRC directions issued in case no. 2886/19/0/2022 were mentioned and an extract of the order and action taken was to be submitted on 24.01.2024 to the Court at 11 :30 AM. Copy of the email and the extract of the order indicating information sought from the respective Departments is enclosed as **Annexure R-5**.

(vii) At Sr. No.4 the directions are to the APMC which are as follows:

"The APMC should ensure erecting, fencing and walls, to set up waste management facilities, including a plant inside the Mandi and other Fish and Poultry Markets to effectively handle excessive waste. The APMC should also handover its garbage to the MCD at the identified spots and should ensure that no garbage/wastage is thrown on the Railway Tracks/land. APMC should also provide logistic support to MCD and help them in maintaining cleanliness in these areas."

(viii) That on 19.01.2024 team of Railway Officials headed by Sr. DME/ND along with other officials and MCD officials, DUSIB officials and Dy. Secretary, APMC and Superintendent Engineer, APMC inspected the site in question and prepared a joint note deciding to construct a boundary wall to be done at the location of opening points at the location of opening points V as requested MCD, which was demolished for removal of garbage. Now closing of the opening to be done by the Railway and APMC as requested by MCD. DUSIB shall ensure that no garbage is disposed at Railway land by encroachers/Jhuggi owners. Copy of the joint inspection report is annexed as **Annexure R-6**.

(ix) That in order to implement the decision the protection was also sought from the SHO Police Station Mahindra Park Delhi vide letter dated 25.01.2024 requesting him to provide execution of work on 28.01.2024



which is erection of wall between at the end of Shed No. 20 (POMA Shed), NSM and Transport Centre DDA Land where there is probability of public agitation during execution of work on 28.01.2024 and, therefore, he was requested to provide the adequate number of Police Force on 28.01.2024 at 10:00 AM on the spot. Copy of the letter to SHO is annexed as Annexure R-7.

(x) That thereafter the wall in question was erected. The erection of wall stopped the illegal crossing of the public from Mandi to Railway Lines, which was not a sub-way or crossing provided for the purpose.

(xi) That a Writ Petition was also pending in the High Court with respect to the allotment of land at Transport Centre to AP11C for which APMC had made payment of Rs. 107.8391 crores+2.02 crores deposited on 29.06.2013 & 18.09.2013 respectively as per allotment letter dated 26.07.2007 allotting , 10.67 acres land free from encroachment. Since inspite- of the fact that cost of the land had been received by DDA, DDA did not issue the possession letter nor handed over me possession. Ultimately it was only on 29.05.2024 that possession of the land was handed over by DDA to the APMC. Copy of the possession documents along with the plan indicating the portion is annexed as Annexure R-8. [para xii to be added]

(xii) That DDA has not reflected the correct position before this Court. Since the wall was already constructed as per the directions of NHRC at the place to avoid illegal thoroughfare as well as to protect the Railway land from being made a dumping ground by the leftover of the fruits and vegetables by the traders of the APMC. The same does cause any hindrance to any individuals as they have their own passage and roads available as per the roadmap prepared by the DDA. In any case, the land which has now been allotted to I answering Respondents, the Respondent will be making efforts to protect its land from encroachment.”

3. Learned counsel appearing for the petitioner makes various submissions to counter the stand taken by respondent no. 6. According to him, there are no directions passed by the National Human Rights Commission (NHRC), and further, the site plan placed on record as annexure-G would clearly indicate that the alleged encroachment by respondent no. 6 has led to the blockage of ingress and egress into the Azadpur Mandi as well as the exit towards the main G.T. Karnal Road.

4. Having considered the nature of the submissions and the response filed by the respondents, the dispute herein would require adjudication of



various disputed questions of fact. They include, whether there is any obstruction created by respondent no.6 by erecting wall, whether the wall has been erected as per the instructions of NHRC or otherwise, etc.

5. The rights of the residents/shopkeepers etc. of the area in question will also have to be examined on the basis of the oral and documentary evidence to be produced by the parties.

6. Section 91 of the Code of Civil Procedure, 1908 makes provision for adequate remedy against 'public nuisances and other wrongful acts affecting the public' by way of a suit to be filed in a representative capacity. In view of the aforesaid, the Court under Article 226 of the Constitution of India may not be an appropriate forum to adjudicate all those aspects and instead, grants liberty to the petitioner to avail an appropriate remedy.

7. Petition stands disposed of.

8. All rights and contentions are left open.

PURUSHAINDR KUMAR KAURAV, J

FEBRUARY 3, 2026/P/AMG