

\$~2 to 8, 10 to 13, 15 to 17 & 19 to 21

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

- + W.P.(C) 6115/2015 & CM No.11120/2015 (for stay)
BRAHM PAL Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6116/2015 & CM No.11122/2015 (for Direction)
JAMEEL AHMAD Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6117/2015 & CM No.11124/2015 (for stay)
ARPIT GUPTA Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6118/2015 & CM No.11126/2015 (for stay)
MAHENDER MANDAL Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6119/2015 & CM No.11128/2015 (for stay)
SACHIN Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6120/2015 & CM No.11130/2015 (for stay)
DEVI CHARAN Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents

- + W.P.(C) 6123/2015 & CM No.11135/2015 (for direction)
RAJU KHAN Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6130/2015 & CM No.11145/2015 (for stay)
AJAY GUPTA Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6131/2015 & CM No.11147/2015 (for stay)
RAMESH YADAV Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6132/2015 & CM No.11149/2015 (for stay)
VIRENDER SINGH Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6134/2015 & CM No.11153/2015 (for stay)
HEMLATA Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6143/2015 & CM No.11166/2015 (for stay)
NISHA KHAN Petitioner
Versus
SOUTH DELHI MUNICIPAL CORPORATION Respondent

- + W.P.(C) 6144/2015 & CM No.11167/2015 (for direction)
BHOLA PRASAD VERMA Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6145/2015 & CM No.11168/2015 (for stay)
VIJAYPAL & ORS Petitioners
Versus
DELHI DEVELOPMENT AUTHORITY & ORS Respondents
- + W.P.(C) 6148/2015 & CM No.11173/2015 (for stay)
LAXMI NARYAN Petitioner
Versus
NORTH MUNICIPAL CORPORATION OF DELHI
& ANR Respondents
- + W.P.(C) 6157/2015 & CM No.11184/2015 (for direction)
AJEET KUMAR Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents
- + W.P.(C) 6158/2015 & CM No.11185/2015 (for direction)
KHURSHID AHMAD Petitioner
Versus
NEW DELHI MUNICIPAL COUNCIL & ANR Respondents

Counsel for petitioners:

Mr. Chandan Kumar and Mr. Ranjit
Kumar, Advs.
Mr. Anand Shailani, Adv.
Ms. Minal Sehgal, Adv.
Mr. M.M. Kashyap, Adv.
Mr. Rahul Kumar, Adv.
Mr. N.K. Sahoo, Adv.

Counsel for respondents:

Mr. Arjun Pant, Adv. for NDMC.
Mr. Naushad Ahmed Khan, Adv. for GNCTD.
Mr. Peeyoosh Kalra, Ms. Sona Babbar and Ms. Mahima Kalra, Adv. for GNCTD.
Ms. Niti Jain, Adv. for GNCTD.
Mr. Satyakam, Adv. for GNCTD.
Mr. Vikas Chopra, Adv. for NDMC & SDMC.
S.I. Bhojraj Singh, P.S.-Sarojini Nagar, New Delhi.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

30.06.2015

CM No.11121/2015 in W.P.(C) No.6115/2015
CM No.11125/2015 in W.P.(C) No.6117/2015
CM No.11127/2015 in W.P.(C) No.6118/2015
CM No.11129/2015 in W.P.(C) No.6119/2015
CM No.11131/2015 in W.P.(C) No.6120/2015
CM No.11146/2015 in W.P.(C) No.6130/2015
CM No.11148/2015 in W.P.(C) No.6131/2015
CM No.11150/2015 in W.P.(C) No.6132/2015
CM No.11154/2015 in W.P.(C) No.6134/2015
CM No.11169/2015 in W.P.(C) No.6145/2015 (all for exemption)

1. Allowed, subject to just exceptions.
2. The applications stand disposed of.

W.P.(C) 6115/2015 & CM No.11120/2015 (for stay), W.P.(C) 6116/2015 & CM No.11122/2015 (for stay), W.P.(C) 6117/2015 & CM No.11124/2015 (for stay), W.P.(C) 6118/2015 & CM No.11126/2015 (for stay), W.P.(C) 6119/2015 & CM No.11128/2015 (for stay), W.P.(C) 6120/2015 & CM No.11130/2015 (for stay), W.P.(C) 6123/2015 & CM No.11135/2015 (for stay), W.P.(C) 6130/2015 & CM No.11145/2015 (for

stay), W.P.(C) 6131/2015 & CM No.11147/2015 (for stay), W.P.(C) 6132/2015 & CM No.11149/2015 (for stay), W.P.(C) 6134/2015 & CM No.11153/2015 (for stay), W.P.(C) 6143/2015 & CM No.11166/2015 (for stay), W.P.(C) 6144/2015 & CM No.11167/2015 (for stay), W.P.(C) 6145/2015 & CM No.11168/2015 (for stay), W.P.(C) 6148/2015 & CM No.11173/2015 (for stay), W.P.(C) 6157/2015 & CM No.11184/2015 (for stay) & W.P.(C) 6158/2015 & CM No.11185/2015 (for stay)

1. All these petitions are preferred by persons claiming to be street vendors within the meaning of Section 2(1) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and seeking to restrain the respective municipalities from dispossessing them from the respective sites from which they claim to be street vending till their cases or claims for issuance of a certificate of vending (within the meaning of Section 4 of the said Act) and to which each of them claims to be entitled, are considered by the Town Vending Committee to be constituted under the said Act. In some of the petitions, additionally, the relief of directing the municipality to issue a local tehbazari site and to register the petitioner in the Town Vending Committee in terms of the guidelines laid down by the Supreme Court in *Maharashtra Ekta Hawkers Union Vs. Municipal Corporation Greater Mumbai* 2013 (11) SCALE 329 and/or a mandamus to the municipality to issue a certificate of vending to the petitioner/s is sought.

2. The counsel for the respondent New Delhi Municipal Council (NDMC) has informed that a large number of such petitions by street vendors have been coming up before this Court on a daily basis and identical orders are being passed therein. Attention is drawn to the order dated 30th October, 2014 of this Court in W.P.(C) No.7337/2014 titled ***Nagendra Yadav Vs. New Delhi Municipal Council*** and in other connected petitions where, a) after taking notice of the aforesaid dicta of the Supreme Court and of the Street Vendors Act supra; and, b) after expressing an opinion that Section 3(3) of the said Act clearly states that no street vendor shall be evicted or relocated till the survey to be carried out by the Committee, has been completed and certificate of vending has been issued to all street vendors, a direction was issued for constitution of the Town Vending Committee within the meaning of Section 2(m) and Section 22 of the said Act within a period of eight weeks therefrom and the petitioners in those cases were permitted to file their representations with the Town Vending Committee and which representations were directed to be decided expeditiously, preferably within six months therefrom and the petitions were disposed of.

3. I highlight, that in the aforesaid order, besides expressing an opinion as aforesaid on Section 3(3) of the Act, no restraint order, as sought in these petitions and as sought in those petitions also, was issued. I further highlight that thus, no relief as sought by the street vendors petitioners, i.e. of restraining the municipality from dispossessing them from the sites from which they claimed to be street vending was given. Perhaps it was felt that granting any such relief would denude the municipalities of all powers to regulate street vending and make the pavements inaccessible to pedestrians and the street vendors will literally hold the rest of the city to ransom.

4. The counsel for the respondent NDMC states that the said order has been followed in all the other petitions which subsequently came before this Court.

5. The counsel for the respondent NDMC further informs that the Town Vending Committee is to comprise of thirty members and of which twelve are to be elected from the association of the street vendors and the remaining are either *ex-officio* / officials or to be nominated. He further states that as far as he is aware, though has no written instructions in this regard, all the other members of the Town Vending Committee are in place and the process of forming of an association of street vendors and holding their elections for

electing the representatives on the Town Vending Committee is at an advance stage.

6. This Court, in the order dated 30th October, 2014 *supra*, had directed the Town Vending Committee to be constituted within a period of eight weeks therefrom. The said period has long since expired. The non-constitution of the Town Vending Committee by the concerned authorities is obviously to the advantage of the street vendors against whom, as opined in the order dated 30th October, 2014, no action can be taken under Section 3(3) of the Street Vendors Act. The same is however to the detriment of the other citizens of the city who face inconvenience on account of the street vending going unregulated. It is hoped that the concerned authorities will expedite the process of constitution of the Town Vending Committee, so that street vending can be regulated in terms of the Act aforesaid.

7. The counsels for the respondents North Delhi Municipal Corporation (NrDMC) and South Delhi Municipal Corporation (SDMC) state that the position in the said two municipalities is the same and what has been informed with respect to the NDMC, equally applies to the said two municipalities also.

8. The counsels for the petitioners state that these petitions be also disposed of on the same lines as order dated 30th October, 2014 supra.

9. I have enquired from the counsels for the petitioner that if they are satisfied with the order dated 30th October, 2014 supra, which as aforesaid does not grant any relief to the petitioners, why these petitions are being filed. I am of the view that the opinion which has been expressed by this Court as to the interpretation of Section 3(3) of the Act in the order dated 30th October, 2014 would equally apply to the street vendors who are not party to the petitions in which the order was made. There thus, in my view, seems to be no need for other street vendors to be filing the petitions particularly when they are satisfied with the same order as the order dated 30th October, 2014.

10. The counsel for the petitioners / street vendors state that the street vendors apprehend that unless a petition is filed, their claims before the Town Vending Committee would not be considered.

11. There appears to be no basis for such apprehension and the counsels also are unable to show any ground therefor. This Court, while disposing of these petitions is not and cannot possibly in writ jurisdiction return any finding of the respective petitioners therein, in fact street vending at the site

claimed by them or not. In fact, it is the stand of the counsel for the respondent NDMC that the NDMC denies that any of the said persons are vending at the sites claimed by them. The said claims of the said street vendors will have to be established before the Town Vending Committee in the manner provided under the Act and cannot be established before this Court.

12. The counsels for the petitioners are therefore requested to advise their clients accordingly and to make available a copy of this order to the street vendors, whosoever approaches them for filing the petitions.

13. It is further made clear that in future, such petition if filed would be dismissed with exemplary costs, unless a case otherwise is made out.

14. In W.P.(C) No.6145/2015, the SDMC having jurisdiction over the area where the petitioners therein claim to be street vending, has not been impleaded and instead Delhi Development Authority (DDA) and the Municipal Corporation of Delhi (MCD) (which has ceased to exist) have been impleaded. On the oral request of the counsel for the petitioners therein and to which the counsel for the SDMC has no objection, SDMC is substituted in place of MCD and an endorsement to the said effect shall be made on the memorandum of parties by the Court Master under her

signatures in today's date itself.

15. The counsel for the petitioner in W.P.(C) No.6148/2015 states that the petitioner therein has a tehbazari licence issued under the regime in force prior to coming into force of the Street Vendors Act supra and in fact the Appellate Authority constituted in terms of the judgment in ***Gainda Ram Vs. MCD*** (2010) 10 SCC 715 had also restrained the municipality from dispossessing the petitioner therein till his application for a permanent tehbazari site is considered and which remains to be adjudicated owing to coming into force of the Street Vendors Act, 2014.

16. The counsel for the respondent SDMC states that it will be verified, whether the petitioner in W.P.(C) No.6148/2015 is street vending at the site as claimed by him and is complying with the conditions imposed on him, while granting him a permanent tehbazari site and whether there is an order of the Appellate Authority as stated by the counsel for the petitioner today and if it is found so, then no action for dispossession of the said petitioner shall be taken.

17. The needful in this regard be done within a period of one week.

18. In the aforesaid view of the matter, all these petitions are decided in terms of the order dated 30th October, 2014 supra and with the observations supra.

JUNE 30, 2015
Bs..

RAJIV SAHAI ENDLAW, J.