



#S-55

## IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 31.08.2023

**W.P.(C) 11501/2023****KUNAL GUPTA AND ORS**

..... Petitioners

Versus

**MCD AND ORS**

..... Respondents

**Advocates who appeared in this case:**

For the Petitioners : Mr. Bibhuti Bhushan Mishra, Mr. Kamalesh Kumar Mishra, Mr. Anjani Mishra, Mr. Aditya and Mr. Dipak, Advocates.

For the Respondents : Ms. Shivangi Kumar, Advocate for R-1/MCD.  
Mr. Divyam Nandrajog, Panel Counsel, GNCTD along with Mr. Mayank Kamra, Advocate for R-3 & R-4.

**CORAM:**

**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL**  
**HON'BLE MR. JUSTICE ANISH DAYAL**

**JUDGMENT****SIDDHARTH MRIDUL, J. (OPEN COURT)**



1. The present writ petition under Article 226 of the Constitution of India, has been instituted on behalf of the petitioners, praying as follows:-

*"In the facts and circumstances stated herein above, it is Most Respectfully prayed that this Hon'ble Court may graciously be pleased to:*

*I. Pass an order directing the respondents to allow the petitioners to peacefully vend in terms of the Certificate of Vending issued to them.*

*II. Pass an Order directing the respondents to ensure that the petitioners be allowed to peacefully vend on their vending sites i.e., On the Footpath, Vikas Marg, Near Lalita Park, Laxmi Nagar, Shahdara South Zone, Ward-13-E, Delhi without any hindrance being caused by any public official.*

*III. Pass an order directing the respondents, their officials, their agents etc. be restrained from harassing the petitioners from peacefully vending at their vending sites.*

*IV. Pass an order directing the SHO, PS Laxmi Nagar to ensure that the petitioner street vendors shall be allowed to peacefully vend at their vending sites.*

*V. Pass an order directing the respondent MCD to correct the nomenclature in the column for Type of Vendor from "Food/Snack with gas cylinder/fire" to "Stationary Street Vendor" (in view of the Section 6 of the Act) as detailed in the vending certificates issued to the petitioners.*

*VI. Pass an order for quashing and setting aside the terms of certificate of vending printed at the back side of the vending certificate to the extent which is not applicable to a stationary street vendor.*



*VII. Pass an order directing the TVC, Shahdara South Zone to decide the representation dated 11.08.2023 made by the petitioners for declaring them as a Stationary Street Vendor in terms of the Section 6 of the Act.*

*VIII. Pass any such directions or order that this Hon'ble Court deems fit and proper in the facts and circumstances of the above-mentioned case.*

2. Issue notice.

3. Ms. Shivangi Kumar, learned counsel accepts notice on behalf of the respondent No. 1/MCD and Mr. Divyam Nandrajog, learned Panel Counsel, GNCTD, accepts notice on behalf of the respondent Nos. 3 and 4/SHO, P.S.: Laxmi Nagar

4. Learned counsel appearing on behalf of the MCD, has invited our attention to the terms and conditions, permitting the petitioners to vend.

5. For the sake of completeness, the said terms and conditions attached to the Certificates of Vending, are reproduced herein below:-

“1. Vendor shall not have any other permanent or long-term vending certificate.

2. Vending certificate is non-transferable.

3. It is mandatory for the vendor to follow the vending period and zone as determined by TVC or local body.

4. Vendor shall not give his vending certificate on rent in any way.



5. Vendor shall not have any infectious disease.
6. Vendor shall have to take care of hygiene on vending place/zone and nearby area and also take care of public health.
7. Vendor shall display copy of vending certificate on his place/vending site and will produce original documents to TVC/concerned inspector whenever required.
8. Vendor/Squatter shall insure that no hindrance be caused to pedestrian and vehicular moment.
9. Vendor shall not vend/sell any harmful, dangerous and polluted items. It should also be ensured that the quality of the products sold and services provided to the public conform to the prescribed standards of public health, hygienic conditions and safety.
10. The street vendor shall not do any unauthorized/illegal activity.
11. **Mobile vendors shall not stay or vend more than 30 minutes or time prescribed by the TVC at place in a vending/squatting zone.**
12. Vendors will not block footpaths and will not vend on roads. Vendor should take care of space in front of vending stalls/counters on footpath for pedestrians.
13. Vending certificate can be cancelled or suspended on the basis of violations.



14. Vendor shall not build or construct any kind of permanent or temporary structure at vending site.
15. Seller shall adopt health and hygiene conditions as required by local laws and court orders.
16. Vendor have to follow all the conditions mentioned in Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019.”

6. In terms of the Certificates of Vending issued to the petitioners, it is clearly stipulated that they cannot vend from any particular location, contrary to the express terms of **Clause no. ‘11’**, of the said Certificates of Vending. It is further observed that since the Town Vending Committee (TVC) is yet to fix a time limit, providing for a period, during which vendors can vend from any particular spot, the stipulation of 30 minutes time, contained in the said clause, is binding on the petitioners, at this stage. Learned counsel appearing on behalf of the petitioners states, that they do not pray for the relief of running their business from any particular vending site, within the zone where they have been permitted to vend by the Municipal Corporation of Delhi, and further, the limited relief that is prayed for, is to permit the petitioners to vend strictly, in accordance with the terms and conditions of the Certificates of



Vending dated **24.11.2021** and **08.11.2021**, issued by the Municipal Corporation of Delhi.

7. It is an admitted position that the Town Vending Committee (TVC), has in terms of the directions issued by this Court, from time to time, as well as, in terms of the mandate of **Section 3 (Survey of street vendors and protection from eviction on relocation) and Section 4 (Issue of certificate of vending) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014**, carried out a survey, in some of the areas under the MCD zones; pursuant to which, the following petitioners have been issued certificates of vending, which are annexed as **Annexure P-3**, to the present writ petition.

<u>S.NO.</u>	<u>NAME OF THE STREET VENDORS</u>	<u>DATE OF ISSUE OF VENDING CERTIFICATE</u>	<u>PLACE OF VENDING</u>	<u>VENDING CERTIFICATE (URI)</u>	<u>CATEGORY OF THE COV ISSUED</u>
1	Mr. Kunal Gupta	24.11.2021	Shahdara South Zone, Ward-18E	3625931	Food/Snack with gas cylinder/fire
2	Mr. Kumar Pal Yadav	24.11.2021	Shahdara South Zone, Ward-13E	8436897	Food/Snack with gas cylinder/fire



3	Mr. Jeyaraman Kannan	08.11.2021	Shahdara South Zone, Ward-13E	2720413	Food/Snack with gas cylinder/fire
4	Mr. Subhash Kumar	24.11.2021	Shahdara South Zone, Ward-13E	9884329	Food/Snack with gas cylinder/fire
5	Mr. Bhoore Lal	24.11.2021	Shahdara South Zone, Ward-13E	4947000	Food/Snack with gas cylinder/fire

8. In view of the foregoing, learned counsel appearing on behalf of the petitioners, categorically limits the relief in the present writ petition, i.e. to a direction to the Municipal Corporation of Delhi, to permit the aforesaid petitioners to continue to vend within **Shahdara South Zone, Ward-18E and Shahdara South Zone, Ward-13E**, strictly and scrupulously in compliance with the terms and conditions of the said certificates of vending, particularly **Clause no. 11**, and in accordance with law.

9. In view of the above, the present writ petition is partly allowed; and the Municipal Corporation of Delhi is directed to permit the petitioners to vend within **Shahdara South Zone, Ward-18E and Shahdara South Zone, Ward-13E**, subject to the terms and conditions of the aforementioned certificates of vending dated **24.11.2021** and **08.11.2021**, without any let or hindrance.



10. Needless to state that, insofar as prayer clause (**VII**) is concerned the petitioners will be at liberty to prosecute their representation dated **11.08.2023**, appended to this petition, which is annexed as '**Annexure P-4**', before the appropriate authorities, in accordance with law, in relation to their certificates of vending.

11. No further directions are prayed for.

12. With the above directions, the writ petition is disposed of accordingly.

13. A copy of this judgment be uploaded on the website of this Court *forthwith*.

**SIDDHARTH MRIDUL**  
**(JUDGE)**

**ANISH DAYAL**  
**(JUDGE)**

**AUGUST 31, 2023/rs**

[Click here to check corrigendum, if any](#)