

(2019) 07 DEL CK 0309

In the Delhi High Court

Case No : Civil Writ Petition No. 7984 Of 2019, Civil Miscellaneous Application
No. 33178, 33179 Of 2019

Ashwani Kumar

APPELLANT

Vs

North Delhi Municipal Corporation And Ors

RESPONDENT

Date of Decision : 24-07-2019

Acts Referred:

Citation : (2019) 07 DEL CK 0309

Hon'ble Judges : Hima Kohli, J;Asha Menon, J

Bench : Division Bench

Advocate : Abhay Kumar, Saurabh Mishra, Vineet Kumar Singh, Mini Pushkarna,
Swagata Bhuyan, Shiva Pandey, Rikita Ganju, Nandini Aishwarya

Final Decision : Disposed Off

Judgement

CM APPL. 33179/2019 (exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 7984/2019 & CM APPL. 33178/2019 (stay)

1. The present petition has been filed by petitioner praying inter alia for quashing a Circular dated 01.07.2019, issued by the respondent no. 1/ North

Delhi Municipal Corporation (in short "DMC") stating inter alia that in view of the ongoing pedestrianisation project in and around Karol

Bagh, a survey of the area was conducted on 26.06.2019 and it was observed that 54 tehbazari holders who were allotted squatting/hawking sites at

places other than Ajmal Khan Road, were squatting at Ajmal Khan Road without any permission.

2. Mr. Abhay Kumar, learned counsel for the petitioner submits that the name of the petitioner finds mention in the impugned Circular at serial no.53

where his present squatting site has been recorded in column 2 as Ajmal Khan Road, the allocated site in column 3 as Bhasin Crockery, Main Ajmal

Khan Road and the proposed alternative site in column 4 as Padam Singh Road, MCD Parking, Shastri Park Wall.

3. Learned counsel for the petitioner submits that the petitioner is an eligible tehbazari holder, who was squatting along the wall of Arya Samaj Mandir,

Ajmal Khan Road, Karol Bagh. Later on, he was allocated a tehbazari site opposite Bhasin Crockery, Main Ajmal Khan Road in Category-I.

However, possession of the allocated site could not be handed over to him due to objections raised by the Management of a school being run by the

Gurudwara Prabandhak Committee. Therefore, he was never relocated opposite Bhasin Crockery.

4. Learned counsel for the petitioner further draws our attention to the reply submitted by the Assistant Commissioner, Karol Bagh Zone before the

Zonal Vending Committee wherein the status of the petitioner as detailed above, was furnished. He states that the said submissions were recorded by

the Zonal Vending Committee in the order dated 13.07.2010 and the petitioner was permitted to squat along the wall of Arya Samaj Mandir, Ajmal

Khan Road, Karol Bagh till he would be given possession of an alternative site by the M.C.D. However, the respondent did not provide any suitable

alternative site to the petitioner and resultantly, he continued squatting at the aforementioned site.

5. It is contended on behalf of the petitioner that even the alternative site proposed in the last column of the impugned Circular, is not in the control of

the respondent/Nr.D.M.C. as the Land Owning Agency is PWD and the said site is also within the non-squatting zone. Therefore, the petitioner has a

genuine apprehension that he may be put in an even more precarious position if he moves to the said site on account of objections that may be raised

by the Land Owning Agency and the local police.

6. Ms. Mini Pushkarna, Standing Counsel for Nr.D.M.C on instructions received from Mr. Naved Khan, Licensing Inspector, Karol Bagh Zone

assures this Court that though the alternate site allocated to the petitioner in terms of the impugned Circular is declared as a non-squatting site, the

same had to be allocated to him due to the ongoing pedestrianisation project undertaken by the Nr.D.M.C. at Ajmal Khan Road and for the said

reason alone, an exception has been made in the case of the petitioner. She submits that most of the sites mentioned in the last column of the

impugned Circular are not under the control of the Nr.D.M.C but they shall ensure that PWD gives a NOC for the said sites and necessary

information in this regard is furnished to the respondent nos. 3 & 4/Delhi police so that the petitioner is not harassed or prevented from squatting at the

said site.

7. While binding the respondent/Nr.D.M.C. to the assurance given, as recorded above, the present petition is disposed of along with the pending

applications. We may note that the above order has been passed limited to testing the legality of the impugned Circular dated 01.07.2019. It shall be

open for the petitioner to raise any other dispute w.r.t. the tehbazari site if he so desires, before the TVC. If a survey is conducted on the directions of

the TVC, his absence from the Ajmal Khan Road site will not be held against him.