
(2017) 09 DEL CK 0079

In the Delhi High Court

Case No : Civil Writ Petition No. 8689 Of 2017

Pradeep Kumar And Ors.

APPELLANT

Vs

New Delhi Municipal Council And Ors

RESPONDENT

Date of Decision : 26-09-2017

Acts Referred:

Citation : (2017) 09 DEL CK 0079

Hon'ble Judges : G.S.Sistani, J;Chander Shekhar, J

Bench : Division Bench

Advocate : N.K.Sahoo, Kumkum, Sri Harsha Peechara, Mananjay Mishra, Chetan Sharma, Udit Gupta

Final Decision : Dismissed

Judgement

G.S.Sistani, J

1. Fifteen petitioners have filed the present writ petition seeking a direction to the respondents to restore the status-quo ante of the petitioners as on

12.05.2017 by allowing the petitioners to return to their respective places of squatting i.e. Gate No.3 and 4, Palika Bazar, Connaught Place, New

Delhi.

2. On an advance copy having been served, Mr. Peechara, counsel for the respondent-NDMC, enters appearance. Mr.Peechara submits that the

present writ petition is not maintainable and should be dismissed with costs as the same fifteen petitioners had filed W.P.(C) No.5246 of 2017. It is

further contended that when the aforesaid matter came up for hearing, the NDMC had reiterated its consistent stand before the Court that the entire

Connaught Place has been declared as "no squatting", "no vending" zone and barring the persons who have Tehbazari licenses or are part

of the Thareja Committee report and/or whose names find mentioned in the list of 628 street vendors, no one else is being allowed to squat and vend.

As the names of the petitioners find mentioned in the list of 628 street vendors prepared by the NDMC, the writ petition was disposed of by a short

order by which fifteen petitioners were to be provided alternate sites within two weeks.

3. Mr. Peechara further submits that since the alternate sites were not provided, one of the petitioners had mentioned the matter in open Court and

thereafter, C.M. No.29908 of 2017 was filed wherein notice was issued. Director, NDMC was directed to remain present in Court and thereafter, on

28.8.2017 copies of allotment letters pertaining to fourteen petitioners were handed over to the counsel for petitioners and finally the application was

disposed of on 31.08.2017. Mr. Peechara submits that a conjoint reading of the aforesaid orders would show that the petitioners were aware that the

alternate sites were being provided at Laxmi Bai Nagar and, in fact, a complaint was made that the area was not free from debris. It is, thus,

contended that no second writ petition for the same relief would be maintainable and the same should be dismissed with costs.

4. Mr. Sahu, learned counsel for the petitioners submits that according to instructions received by him, the petitioners were always under the

impression that they would be accommodated in Connaught Place area and thus, the present writ petition has been filed.

5. We have heard learned counsel for the parties. The earlier writ petition, being W.P.(C) 5246/2017, filed by the petitioners was disposed of by an

order dated 10.07.2017, which reads as under :-

â??At the request of learned counsel for the petitioners, petitioner No.8 is deleted from the array of parties.

Amended memo of parties be taken on record. Advance copy was supplied and amendments ascertained/verified.

The petitioners claim that their names find mention in the list of 628 street vendors prepared by the New Delhi Municipal Council

(â??NDMC?). Learned counsel for the petitioners submits that the petitioners have been removed from their respective sites, as detailed in

the memo of parties.

Mr. Harsha Peechara, Additional Standing Counsel, who appears for the NDMC,

submits that it stands verified that the names of the

petitioners find mention in the list of 628 street vendors and they would be provided alternative sites within two weeks.

Binding the learned counsel for NDMC with the statement made in the Court, the writ petition is disposed of as prayed. All the pending

applications are also disposed of.

Dasti.â??

6. After the writ petition was disposed of, one of the petitioners had mentioned this matter in open Court. We had requested Mr. Peechara to look into

the matter since the order of granting alternate sites within two weeks was not complied with. The C.M. No.29908 of 2017 was filed by the

petitioners in the disposed of writ petition and not only notice was issued but the concerned Director was directed to remain present in Court on the

next date of hearing i.e. 23.08.2017. Order dated 21.08.2017 reads as under :-

â??C.M. 29908/2017

This is an application filed by the petitioner complaining that the order dated 10.07.2017 has not been complied with.

We may note that the petitioner had also mentioned this matter in the open Court. We have then, requested the counsel for the North Delhi

Municipal Council (NDMC) to look into the matter and to ensure that the order is complied with.

Notice. Mr. Harsha Peechara, learned Standing Counsel for the NDMC accepts notice.

We direct the concerned Director to remain present in the Court on the next date.

List on 23.08.2017.â??

7. The application was adjourned to 23.8.2017, when the following order was passed:

â??C.M. No.29908/2017 (for directions, by petitioners)

Order dated 10.07.2017 still not complied with. Mr.V.K.Gautam, Director, NDMC is present in Court. Let Mr.Gautam file his personal

affidavit, giving reasons as to why the order dated 10.07.2017 has not been complied with.

List on 28.08.2017 when Mr.Gautam is directed to remain present in Court.â??

8. On 28.08.2017, the following order was passed.

â??Affidavit is not on record. Let the same be traced and placed on record.

We are informed by Mr. V.K. Gautam, Director, NDMC that the allotment letters have been prepared and shall be posted to the vendors

during the course of the day. Copies of the letters pertaining to 14 petitioners have been handed over to Mr. Samrat Nigam, learned counsel

for the petitioners in Court today as well.

List on 31.8.2017.

The presence of Mr. V.K. Gautam, Director, NDMC is dispensed with.â??

9. The matter was then adjourned to 31.08.2017 when the application was disposed of and the following order was passed :-

â??C.M. No.29908/2017 (for directions, by petitioners)

We are informed that the allotment letters have been received by the petitioners. Mr.Nigam, learned counsel for the petitioners, however,

complains that the site at Laxmi Bai Nagar is not free from debris etc. On the other hand, Mr.Peechara, learned counsel for NDMC submits

that he has personally visited the site and there is no debris at the site.

We hope that the Laxmi Bai Nagar site would be cleared of all debris, if any and is made suitable for carrying out vending activities.

Application stands disposed of.â??

10. A reading of order dated 10.07.2017 would show that the writ petition was disposed of binding to the respondents to the stand taken that they

would provide alternate sites to the petitioners within two weeks. The order dated 10.07.2017 makes it abundantly clear that no specific site was

promised to the petitioners. Although, the order dated 10.7.2017 does not specify but it was a clear understanding between the parties that an alternate

site would be provided at Laxmi Bai Nagar. We may also note that we have been hearing matters pertaining to the street vendors and the NDMC has

taken a consistent stand before us that Connaught Place is â??no hawkingâ??, â??no vendingâ?? zone. Reading of the subsequent orders would

show that nowhere a complaint was made that the petitioners should be accommodated only in Connaught Place and in fact when the allotment letters

were handed over, no protest was made. In fact, the counsel had pointed out that Laxmi Bai Nagar area was full of debris, which was disputed by

counsel for NDMC, who has submitted that he has personally visited the area in question. Once the earlier Writ Petition No.5246 of 2017 had attained

finality, in our view, the second writ petition seeking identical prayers would not be maintainable. The petitioners had agreed to accept the alternate

sites. In the order no specific site was mentioned and even otherwise, the petitioners could not have been accommodated in Connaught Place area

from where they were initially removed and secondly the petitioners were well aware of the consistent stand of the NDMC that Connaught Place has

been declared as "no hawking", "no vending" zone and barring the persons who have Tehbazari licenses or are part of the Thareja

Committee report and/or whose names find mentioned in the list of 628 street vendors, no one else is being allowed to squat and vend.

11. We find force in the submissions of Mr. Peechara that the present writ petition is misconceived. Resultantly, we dismiss the same subject to

payment of cost of Rs.5,000/- by each of the petitioners except Mr.Chander Mohan/petitioner no.8 as he is suffering from cancer. The cost would be

paid to Delhi High Court Mediation and Conciliation Centre.