

(2023) 05 DEL CK 0093

In the Delhi High Court

Case No : Civil Writ Petition No. 9022 Of 2022

Prem Nath Mishra

APPELLANT

Vs

New Delhi Municipal Council & Ors

RESPONDENT

Date of Decision : 15-05-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 05 DEL CK 0093

Hon'ble Judges : Siddharth Mridul, J; Talwant Singh, J

Bench : Division Bench

Advocate : Bhibhuti Bhushan Mishra, Kamlesh Kumar Mishra, Aditya, Kailash Kumar Jha, Anjani Mishra, Raghunath Pathak, Harsha Peechara, Harshita Gupta, Urvi Mohan

Final Decision : Disposed Of

Judgement

Siddharth Mridul, J

1. The present writ petition under Article 226 of the Constitution of India, has been instituted on behalf of the petitioner, 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:

1. Pass an order directing the NDMC to allow the petitioner to peacefully vend at his usual place of vending i.e., D-Block, Corner of Embassy Restaurant, Connaught Place, Inner Circle, New Delhi - 110001 in accordance with the provisions of the Street Vendors (protection of Livelihood and regulation of street vending) Act 2014.

II. Pass an order directing the NDMC to conduct the survey under the Street Vendors (protection of Livelihood and regulation of street vending) Act 2014 as also as mandated under, The Delhi Street Vendors (Protection of Livelihood and regulation of Street vending) Rules 2017 & The Government of National Capital

Territory of Delhi Street Vendors (Protection of Livelihood and regulation of Street vending) Scheme 2019 and further to provide the certificate of vending to the petitioner.

III. Pass an order directing the respondents start and complete the survey of the street vendors in the NDMC area as mandated under the Street Vendors (protection of Livelihood and regulation of street vending) Act 2014 as also as mandated under, The Delhi Street Vendors (Protection of Livelihood and regulation of Street vending) Rules 2017&The Government of National Capital Territory of Delhi Street Vendors (Protection of Livelihood and regulation of Street vending) Scheme 2019.

IV. Pass an order directing the respondents to place on record all materials/orders/communications pertaining to the Survey of the Street Vendors in the NDMC area.

V. 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. Learned counsel appearing on behalf of the petitioner, limits the relief in the present writ petition, in relation to the prayer clause II (extracted herein above), of the present writ petition, and to consider the case of the petitioner, at the time the TVC carry out the subject survey, in accordance with law.

3. Accordingly, it is relevant to highlight that this Court, vide order dated 16.02.2023, issued certain directions to the New Delhi Municipal Council (NDMC) and GNCTD in W.P. (C) 12459/2022, titled as 'Bacchu Singh Paharia Vs. New Delhi Municipal Council & Anr.'; which will extend to the present petitioner, as well, with equal force and vigour. The order dated 16.02.2023, passed in W.P. (C) 12459/2022, titled as 'Bacchu Singh Paharia Vs. New Delhi Municipal Council & Anr.' is extracted herein below, in toto:

'The present writ petition under Article 226 of the Constitution of India, has been instituted on behalf of the petitioner, praying as follows:

"It is therefore, most respectfully prayed that this Hon'ble Court may be pleased to:-

a) Direct the Respondent no. 1 and 2 allow the petitioner to operate at his given vending site i.e. Near Shop No.36, Sarojini Nagar Market New Delhi till the final decision taken by the Town Vending Committee after completion of Survey.

b) Issue a Writ, Order or Direction in the nature of Pass such other or further orders, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

Mr. Gautam Narayan, learned Additional Standing Counsel (Civil) appearing on behalf of the GNCTD states that the survey to be conducted by the duly constituted Town Vending Committee, shall commence forthwith, in accordance with the provisions of the Street Vendors (Protection of Livelihood and Regulation

of Street vending) Act 2014, as well as the Delhi Street Vendors (Protection of livelihood and regulation of street vending) Rules, 2017 and The Government of National Capital territory of Delhi Street Vendors (Protection of livelihood and regulation of street vending) Scheme, 2019.

Mr. Sri Harsha Peechara, learned Additional Standing Counsel appearing on behalf of NDMC states, that they shall render assistance, as may be required by the GNCTD, in this behalf.

Directed accordingly.

No further relief is prayed for.

With the above directions, the writ petition is disposed of accordingly. Pending applications also stand disposed of.

Copy of the order be given dasti to learned counsel appearing on behalf of the parties.'

4. Having regard to the facts and circumstances attendant and antecedent, in relation to the present writ petition and having heard learned counsel appearing on behalf of the parties; we dispose of the present writ petition, with a direction to the Town Vending Committee, to consider the case of the petitioner, at the time the latter carries out the survey, in accordance with law.

5. No further relief is prayed for.

6. The writ petition is disposed of accordingly.

7. A copy of this judgment be uploaded on the website of this Court.