

(2018) 05 DEL CK 0424

DELHI HIGH COURT

Case No: W.P.(C) 7785 OF 2017

VIJAY KUMAR SAHU & ANR.

APPELLANT

Vs

GOVT. OF NCT AND ORS

RESPONDENT

Date of Decision: May 29, 2018

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: G.S. Sistani, J; Sangita Dhingra Sehgal, J

Bench: Division Bench

Advocate: Anamika Ghai Niyazi, Isha Khanna, Nidhi Raman, Sriharsha Peechara, Vidhi Jain

Final Decision: Disposed Of

Judgement

1. The petitioners have filed the present writ petition under Article 226 of the Constitution of India. The petitioners claim to be hawking at their respective sites opposite Nehru Enclave, next to CNG Petrol Pump, Kalkaji, Nehru Place, New Delhi for the last 21 years. The petitions were admittedly removed in the month of August, 2017.

2. Ms. Anamika Ghai Niyazi, learned counsel appearing on behalf of the petitioners submits that the petitioners are regular street vendors and their rights have been protected under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. Moreover, the petitioners rely upon an order dated 19.04.2011 passed by the Presiding Officer, Zonal Vending Committee in support of her submission that the petitioners have been all alone been making efforts to protect their rights. Counsel further submits that in a recent order passed in Writ Petition(Civil) 4677/1985 titled

as M.C.Mehta v. Union of India and Ors, the Supreme Court of India has held as under:

ÂœIA NOS. 74451 AND 74452/2018 (Applications for intervention and direction on behalf of Rehari Patri Welfare Association)

We have heard learned counsel for the petitioner, the learned ASG and the learned Amicus.

(i) The learned ASG says that those vendors who have got The bazari rights and have made constructions on the basis of Teh bazari rights will not be

disturbed except to the extent that they have made some unauthorized construction or encroachment.â€

3. Mr. Peechara, learned counsel appearing on behalf of the SDMC submits that the area in question is Nehru Place, which has been declared as a

â€˜no-vendingâ€™ â€˜no-hawkingâ€™ zone. He submits that in the case of Bachchu Singh & Anr. v. South Delhi Municipal Corp. & Ors, W.P.(C)

2566/2017 decided on 07.09.2017, wherein the arguments sought by the petitioners have been considered and rejected.

4. In response to the submissions made by the counsel for the SDMC, Ms. Anamika Ghai submits that the judgment in the case of Bachchu Singh &

Anr.(supra) would not apply as the aforesaid writ petition pertains to Nehru Place, whereas the petitioners were squatting at Nehru Enclave Colony.

5. At this stage, Ms. Anamika Ghai submits that amended rules of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending)

Rules 2017 have been notified on 10.01.2018. Public notice has been issued and street vendors have been called to submit applications with supporting

documents to enable the Corporation to prepare the electoral roll. She submits that the petitioners may be permitted to approach the TVC with all

supporting documents as and when it is constituted with a direction that the TVC would consider the case of the petitioners in accordance with law.

6. Accordingly, the petitioners may approach the TVC as and when it is functional with all the supporting documents. The TVC would consider the

case of the petitioners in accordance with law after taking into consideration all the material placed on record.

7. The writ petition stands disposed of in above terms, as prayed.