

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 20.08.2014

W.P.(C) 4303/2014 & CM No.8645/2014

**NATIONAL ASSOCIATION OF STREET VENDORS OF INDIA
THROUGH ITS COORDINATOR Petitioner**

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORSRespondents

Advocates who appeared in this case:

For the Petitioner : Ms Indira Unninayar, Mr Narayan Krishan, Mr Ramesh Mishra,
Mr Harkirat and Ms Nina Bhalla.

For the Respondents : Mr Gaurang Kanth for MCD with Ms Biji Rajesh Ms Khushboo Tyagi.
Mr Deepak Agarwal for FSSAI.

CORAM:

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

J U D G M E N T

BADAR DURREZ AHMED, J (ORAL)

1. The petitioner is the National Association of Street Vendors of India. This writ petition is concerned with the public notices issued by the three Municipal Corporations of Delhi (East, South and North). These public

notices were issued sometime in March, 2014. By virtue of the said public notices, the sale of cut-fruits and any articles of food or drink exposed to dust and flies as also the sale of sugarcane juice was prohibited for a period of six months with effect from 01.04.2014.

2. We have heard the counsel for the petitioner as well as the learned counsel for the South and East Delhi Municipal Corporations. The learned counsel representing the Food Safety Standards Authority of India, though not a party, is present in Court and has assisted us. After considering the submissions made by the parties on both sides and going through the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, the Delhi Municipal Corporation Act, 1957, the Food Safety and Standards Act, 2006 as well as the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011, we are of the view that the public notices issued by the Municipal Corporations of Delhi need not remain in place in view of the fact that specific provisions have been made with regard to food safety and sanitary and hygiene requirements for street food vendors under the provisions of the Food Safety and Standards Act, 2006 as also the said Food Safety and Standards Regulations, 2011. Furthermore, insofar as street vending is

concerned, the subject matter is entirely covered by the Street Vendors Act, 2014. The rights and obligations of street vendors, requirements of cleanliness and public hygiene as well as the formation of the Town Vending Committees have been specified in the said Street Vendors Act, 2014. Chapter 8 of the said Act also provides for the prevention of harassment of street vendors. Section 3 of the said Act provides for the conduct of a survey and Section 3 (3) thereof stipulates that no street vendor shall be evicted till the survey has been completed. It is an admitted position that the survey has not yet been completed. Therefore, the provisions of Section 3(3) of the Street Vendors Act, 2014 shall be applicable and no street vendor can be evicted. Section 33 of the Street Vendors Act, 2014 also gives it overriding effect over other laws.

3. Insofar as the Food Safety and Standards Act, 2006 is concerned, sale of food items including cut-fruits and sugarcane would be covered under the said Act. The sale of such items by street vendors is also covered by the said Act. In other words, the Food Safety and Standards Act, 2006 provides the umbrella provisions for food safety and standards concerning both large manufacturers and street vendors. We may refer to the said Food Safety and Standards Regulations, 2011. Under Regulation 2.1.2, the requirement of

registration of petty food businesses which would include street vendors, is stipulated. Regulation 2.1.1 (2) specifically requires petty food manufacturers to follow the basic hygiene and safety requirements provided in Part I of Schedule IV of the regulations and to also provide attested declarations of adherence to the said requirements along with applications in the format provided in Annexure -1 under Schedule 2. Schedule IV, Part I, Heading 'A' deals with sanitary and hygiene requirements for street food vendors and units other than manufacturing/processing. Elaborate requirements have been specified in serial nos.1 to 23 thereof, which we need not reproduce here for the sake of brevity.

4. It is, therefore, evident that the requirements of food safety have been adequately dealt with under the said Food Safety and Standards Rules and said Regulations. It is nobody's case that the provisions of the said Food Safety and Standards Rules and the said Regulations are not to be complied with. This being the position, we feel that the public notices issued by the Municipal Corporations of Delhi are too general and when specific requirements already exist in the shape of the above mentioned provisions, the latter provisions shall take precedence over the public notices and the provisions under which they were issued.

5. It would be for the Food Safety and Standards Authority of India and the functionaries under it to take appropriate action to ensure the maintenance of food safety and standards. Commissioners of Food Safety have been specified for each State and designated officers have been specified for each district. These officers are fully empowered to take action to ensure that, inter alia, street vendors follow the prescriptions of law as per the said Act, Rules and Regulations so that the food safety and the standards are maintained. Section 34 of the Food Safety and Standards Act, 2006 empowers the designated officers to even issue emergency prohibition notices whenever a health risk condition exists with respect to any food business. It is in view of the special and stringent provisions of the Food Safety and Standards Act, 2006; the said Rules and the said Regulations made thereunder, that the provisions of the Delhi Municipal Corporation Act, 1957 impinging on food safety and health concerns pale into insignificance. As a result, the impugned public notices shall have to give way to the requirements under the Food Safety and Standards Act, 2006 and the said Rules and the said Regulations made thereunder read with the said Street Vendors Act, 2014. Consequently, the impugned public notices are quashed.

6. The writ petition is allowed to the aforesaid extent. Dasti to all parties including the learned counsel for Food Safety and Standards Authority of India.

BADAR DURREZ AHMED, J

SIDDHARTH MRIDUL, J

AUGUST 20, 2014
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