



#S-40

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 06.09.2023

W.P.(C) 10710/2023 & CM APPL. 44295/2023 (to place on record additional documents)

MAHAMMAD YAKOOB & ORS.

..... Petitioners

versus

MUNICIPAL CORPORATION OF DELHI & ORS..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Varun Singh, Ms. Kajal Gupta, Ms. Smriti Wadhwa and Ms. Somesa Gupta, Advocates.

For the Respondents : Ms. Tajinder Viridi, Standing Counsel for R-1 and R-2/MCD.
Mr. Mohit Bhardwaj, Advocate for R-3/SHO, P.S.:
South Shahdara Zone.

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE ANISH DAYAL

J U D G M E N T



SIDDHARTH MRIDUL, J. (OPEN COURT)

CM APPL. 46364/2023 (for deletion of name of petitioner Nos. 5, 6 and 7)

1. The present application under Order 1 Rule 10(2) read with Section 151 of the Code of Civil Procedure (CPC), 1908, has been instituted on behalf of Mr. Mahammad Yakoob & Ors., the applicants/petitioners herein, praying as follows:-

“In view of the aforesaid facts and circumstances, it is most respectfully prayed that this Hon’ble Court may be pleased to: -

- a. Allow deletion of the Petitioner no. 5, 6, and 7 from the array of memo of parties and allow the present Application by taking on record ANNEXURE A-2 as the amended memo of parties;
- b. Pass any other order(s) and direction(s) as may be deemed fit and proper in the circumstances of the case.”

2. Issue notice.

3. Ms. Tajinder Viridi, learned Standing Counsel accepts notice on behalf of the non-applicants/respondent Nos. 1 and 2/MCD; Mr. Mohit Bhardwaj, learned counsel accepts notice on behalf of the non-



applicant/respondent No. 3/P.S.: South Shahdara Zone and fairly do not oppose the present application.

4. In view of the circumstance that the writ petition itself is at the initial stage, as well as, the circumstance that the petitioner No. 5, namely, Mr. Amrit Lal Chaurasiya, petitioner No. 6, namely, Mr. Krishanpal Singh and petitioner No. 7, namely, Mr. Mushrraf, have independently instituted separate writ petitions, in relation to the subject matter of the present proceedings, we see no impediment in allowing the present application.

5. The application is accordingly allowed. The petitioner No. 5, namely, Mr. Amrit Lal Chaurasiya, petitioner No. 6, namely, Mr. Krishanpal Singh and petitioner No. 7, namely, Mr. Mushrraf, are deleted from the array of parties, in the present writ petition.

6. The amended memo of parties is directed to be taken on the record.

7. The application is disposed of accordingly.

W.P.(C) 10710/2023



8. The present writ petition under Article 226 and Article 227 of the Constitution of India, 1950, has been instituted on behalf of the petitioners, praying as follows:-

“It is, therefore, most respectfully and humbly prayed from this Hon’ble Court that this Writ Petition may please be allowed. It is further prayed that this Hon’ble Court may:-

- a. Issue appropriate writ, order and/ or direction against the Respondent No. 1 & 3 for abusing his power and prohibiting Respondent No. 1 & 3 from continuously harassing the Petitioners.
- b. Issue appropriate writ, order and/ or direction allowing the Petitioners to carry of the business as Street Vendor peacefully and in accordance with their Certificate of Vending, without any illegal interference from the Respondent authorities.
- c. Any other order which this Hon’ble Court may deem fit in the facts and circumstances of the case may also be passed.”

9. Issue notice.

10. Ms. Tajinder Viridi, learned Standing Counsel accepts notice on behalf of the respondent Nos. 1 and 2/MCD and Mr. Mohit Bhardwaj, learned counsel accepts notice on behalf of the respondent No. 3/P.S.: South Shahdara Zone.



11. Learned Standing Counsel appearing on behalf of the MCD, has invited our attention to the terms and conditions, permitting the petitioners to vend.

12. For the sake of completeness, the said terms and conditions attached to the Certificate of Vending, are reproduced herein below:-

- “1. Vendor shall not have any other permanent or long-term vending certificate.
2. Vending certificate is non-transferable.
3. It is mandatory for the vendor to follow the vending period and zone as determined by TVC or local body.
4. Vendor shall not give his vending certificate on rent in any way.
5. Vendor shall not have any infectious disease.
6. Vendor shall have to take care of hygiene on vending place/zone and nearby area and also take care of public health.
7. Vendor shall display copy of vending certificate on his place/vending site and will produce original documents to TVC/concerned inspector whenever required.
8. Vendor/Squatter shall insure that no hindrance be caused to pedestrian and vehicular moment.



9. Vendor shall not vend/sell any harmful, dangerous and polluted items. It should also be ensured that the quality of the products sold and services provided to the public conform to the prescribed standards of public health, hygienic conditions and safety.
10. The street vendor shall not do any unauthorized/illegal activity.
11. **Mobile vendors shall not stay or vend more than 30 minutes or time prescribed by the TVC at place in a vending/squatting zone.**
12. Vendors will not block footpaths and will not vend on roads. Vendor should take care of space in front of vending stalls/counters on footpath for pedestrians.
13. Vending certificate can be cancelled or suspended on the basis of violations.
14. Vendor shall not build or construct any kind of permanent or temporary structure at vending site.
15. Seller shall adopt health and hygiene conditions as required by local laws and court orders.
16. Vendor have to follow all the conditions mentioned in Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019.”

13. In terms of the Certificates of Vending issued to the petitioners, it is clearly stipulated that they cannot vend from any particular location,



contrary to the express terms of **Clause no. '11'**, of the said Certificates of Vending. It is further observed that since the Town Vending Committee (TVC) is yet to fix a time limit, providing for a period, during which vendors can vend from any particular spot, the stipulation of 30 minutes time, contained in the said clause, is binding on the petitioners, at this stage. Learned counsel appearing on behalf of the petitioners states, that they do not pray for the relief of running their business from any particular vending site, within the zone where they have been permitted to vend by the Municipal Corporation of Delhi.

14. It is an admitted position that the Town Vending Committee (TVC), has in terms of the directions issued by this Court, from time to time, as well as, in terms of the mandate of **Section 3 (*Survey of street vendors and protection from eviction on relocation*) and Section 4 (*Issue of certificate of vending*) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014**, carried out a survey, in some of the areas under the MCD zones; pursuant to which, the following petitioners have been issued certificates of vending, which are annexed as **Annexure A-1 to A-5** along with the CM APPL. 44295/2023, in the present writ petition.



<u>S.NO.</u>	<u>NAME OF THE STREET VENDORS</u>	<u>DATE OF ISSUE OF VENDING CERTIFICATE</u>	<u>PLACE OF VENDING</u>	<u>VENDING CERTIFICATE (URI)</u>	<u>CATEGORY OF THE COV ISSUED</u>
1	Mr. Mahammad Yakoob	15.11.2021	Shahdara South Zone, Ward-19E	5457099	Food/Snack with gas cylinder/fire
2	Mr. Mohan Singh Verma	08.11.2021	Shahdara South Zone, Ward-19E	5138295	Food/Snack with gas cylinder/fire
3	Mr. Dinesh Kumar Yadav	24.11.2021	Shahdara South Zone, Ward-19E	3526616	Food/Snack with gas cylinder/fire
4	Mr. Arnav Singh	15.11.2021	Shahdara South Zone, Ward-14E	1920615	Food/Snack with gas cylinder/fire
5	Ms. Shobha	15.11.2021	Shahdara South Zone, Ward-17E	4044218	Food/Snack with gas cylinder/fire

15. In view of the foregoing, learned counsel appearing on behalf of the petitioners, categorically limits the relief in the present writ petition, i.e. to a direction to the Municipal Corporation of Delhi, to permit the petitioner No.1, namely, **Mr. Mahammad Yakoob**, petitioner No.2, namely, **Mr. Mohan Singh Verma** and petitioner No. 3, namely, **Mr. Dinesh Kumar Yadav**, to continue to vend within **Shahdara South Zone, Ward-19E**; petitioner No. 4, namely, **Mr. Arnav Singh**, to



continue to vend within **Shahdara South Zone, Ward-14E** and petitioner No. 5, namely, **Ms. Shobha**, to continue to vend within **Shahdara South Zone, Ward-17E** respectively, as per the Certificates of Vending, strictly and scrupulously in compliance with the terms and conditions of the said certificates of vending, particularly **Clause no. 11**, and in accordance with law.

16. In view of the above, the present writ petition is partly allowed; and the Municipal Corporation of Delhi is directed to permit the petitioner No.1, namely, **Mr. Mahammad Yakoob**, petitioner No.2, namely, **Mr. Mohan Singh Verma** and petitioner No. 3, namely, **Mr. Dinesh Kumar Yadav**, to continue to vend within **Shahdara South Zone, Ward-19E**; petitioner No. 4, namely, **Mr. Arnav Singh**, to continue to vend within **Shahdara South Zone, Ward-14E** and petitioner No. 5, namely, **Ms. Shobha**, to continue to vend within **Shahdara South Zone, Ward-17E** respectively, subject to the terms and conditions of the aforementioned certificates of vending dated **08.11.2021, 15.11.2021** and **24.11.2021**, without any let or hindrance.

17. No further directions are prayed for.



18. With the above directions, the writ petition is disposed of accordingly. The pending application also stands disposed of.

19. The date already fixed i.e. 19.09.2023 stands cancelled.

20. A copy of this judgment be uploaded on the website of this Court *forthwith*.

**SIDDHARTH MRIDUL
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

SEPTEMBER 06, 2023/rs

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