



\$-7

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On:09.10.2023

W.P.(C) 8645/2023 & CM APPL. 32780/2023 (interim relief)

TERSH SHAH

..... Petitioner

Versus

MUNICIPAL CORPORATION OF DELHI AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Vibhuti Bhushan Mishra, Mr. Kamlesh Kr. Mishra, Mr. Aditya, Mr. P S Rao & Mr. Dipak Raj, Advocates.

For the Respondents : Mr. Chetanya Singh, Ms. Ria Sachthey and Mr. Chetan Sharma, Advocates for R-1/MCD

Ms. Sweety Singh and Mr. Rahul Pandey, Advocates for R-2 & R-3.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

SIDDHARTH MRIDUL, J. (OPEN COURT)



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

“I. For an order directing the respondent authorities to ensure that the petitioner is allowed to peacefully vend at his vending spot at Shaheed Jeet Singh Marg ,Near Fai Bus Stand, Near By To Uso Marg, Qutub Institutional Area, New Delhi-110067, in accordance with the vending certificate.

II. Pass an order directing the respondents, their officials, their agents etc. be restrained form harassing the petitioner and from any further illegal removal of the petitioner form his vending spot.

III. Pass an order against respondent No.4 to compensate/ pay for the damages caused to the petitioner.

IV. Pass An Order Directing The Respondents To Decide The Final Tehbazari Site Of The Petitioner And Grant Appropriate Letter/ Document Along With The Possession For The Said Tehbazari Site.

V. 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. Issue notice.
3. Mr. Chetanya Singh, learned counsel appearing on behalf of MCD and Ms. Sweety Singh, learned counsel appearing on behalf of respondent No. 2 and 3 accept notice.
4. Learned counsel appearing on behalf of the MCD, has invited our attention to the terms and conditions, permitting the petitioner to vend.
5. 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.”

6. In terms of the Certificate of Vending issued to the petitioner, it is clearly stipulated that he cannot vend from any particular location, contrary to the express terms of **Clause no. ‘11’**, of the said Certificate 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 a vendor can vend from any particular spot, the stipulation of 30 minutes time, contained in the said clause, is binding on the petitioner, at this stage. Learned counsel appearing on behalf of the petitioner states, that he does not pray for the relief of running his business from any particular vending site, within the zone where he has been permitted to vend by the Municipal Corporation of Delhi, and further, the limited relief that is prayed for, is to permit the petitioner to vend strictly, in



accordance with the terms and conditions of the Certificate of Vending dated **06.11.2021**, issued by the Municipal Corporation of Delhi.

7. 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 petitioner, namely **Mr. Tersh Shah**, has been issued Certificate of Vending dated **06.11.2021 (URI: 5649037)** in the category of **'Food/ Snacks with gas cylinder/ fire'** which is annexed as **Annexure P-1**, to the present writ petition.

8. In view of the foregoing, learned counsel appearing on behalf of the petitioner, categorically limits the relief in the present writ petition, to a direction to the Municipal Corporation of Delhi, to permit **Mr. Tersh Shah**, to continue to vend within **South Zone, Ward- S-67**, strictly and scrupulously in compliance with the terms and conditions of the said Certificate of Vending, particularly Clause No.11, and in accordance with law.



9. In view of the above, the present writ petition is partly allowed; and the Municipal Corporation of Delhi is directed to permit **Mr. Tersh Shah**, the petitioner *herein*, to vend within **South Zone, Ward- S-67**, subject to the terms and conditions of the aforementioned Certificate of Vending dated **06.11.2021** without any let or hindrance.

10. Needless to state that the petitioner will be at liberty to articulate the difficulties faced by him, before the appropriate authorities i.e. Town Vending Committee (TVC), at the time they carry out the subject survey, in accordance with law, in relation to the Certificate of Vending.

11. No further directions are prayed for.

12. With the above directions, the writ petition is disposed of accordingly.

13. Pending application also stands disposed of.

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

**SIDDHARTH MRIDUL
(JUDGE)**

ANISH DAYAL

2023:DHC:8840-DB



(JUDGE)

OCTOBER 09, 2023/SM/vp