



IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

CWP No. 4181 & 6863/2023
Decided on: 30.08.2024

CWP No. 4181/2023

Feraj Ram & Ors.

Versus

...Petitioners

State of H.P. & Ors.

....Respondents.

CWP No. 6863/2023

Vinay Prasad & Ors.

Versus

...Petitioners

State of H.P. & Ors.

....Respondents.

.....
Coram

Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹

For the petitioners:

**Mr. Bhuvnesh Sharma, Sr.
Advocate with Mr. Parav Sharma
and Ms. Vishali Lakhanpal,
Advocates, in both the petitions.**

For the respondents:

**Ms. Avni Kochhar, Deputy
Advocate General, for respondents
No.1 & 2, in both the petitions.**

**Mr. Mukul Sood, Advocate, for
respondent No.3, in both the
petitions.**

Jyotsna Rewal Dua , J

These petitions involving overlapping issues have been taken up together for quite sometime, hence, are being disposed of vide this common order.

¹ Whether reporters of the local papers may be allowed to see the judgment? yes

2. The reliefs prayed for:-**2(i) CWP No. 4181/2023**

This writ petition has been filed for the grant of following substantive reliefs:-

"i) That the Respondents may kindly be restrained from evicting the Petitioners from present place of their occupation from Dalai Lama Temple Road, Macleod Ganj, Dharamshala, District Kangra (H.P.) without giving them assurance in writing regarding their rehabilitation at an appropriate place.

ii) That the Respondents may be further restrained from evicting the Petitioners till proper arrangements are made for their rehabilitation at the place where basic amenities of drinking Water, toilet, shelter etc. are available and scope of running their business is there, so as to enable them to earn their livelihood.

iii) That till the permanent rehabilitation of the Petitioners after their eviction from the present place, the temporary arrangement be made at the Top Floor of Dharamshala Municipal Corporation parking after providing them basic amenities there.

iv) That the Respondent No.3 may be directed to implement the provisions of the Street Vendors Act 2014, H.P. Street Vendors(Protection of Livelihood and Regulation of Street Vending) Rules, 2016 hereafter referred as Rules 2016, H.P. Street vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2017 (in short Schemes 2017), National Urban Livelihood Mission(NULM), Support to Urban Street Vendors(SUSV) etc. in their true letter and spirit w.e.t. to the Petitioners and other Street Vendors and Town Vending Committee be constituted as per Rules.

v) That the Petitioners be also issued proper Certificates of Vending and Identify Cards in terms of the provisions of Section 3 of the Street Vendors Act 2014, and paras 3 to 7 of the H.P. Street vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2017.

vi) That the Respondents may also be directed to prepare proper Street Vending Plan in terms of the provisions of the Act and First Schedule and Vending and non-Vending Zones etc. be also duly established in terms of para-3 of the First Schedule of the Act.”

2(ii)

CWP No. 6863/2024

This writ petition has been filed for the grant of following substantive reliefs:-

“i) That the Respondents may kindly be directed to allot 12 shops to the petitioners out of the 21 shops constructed in the premises from where they were evicted on 13/02/2023 from Dalai Lama Temple Road, near Ropeway to new DMC Parking, at MacleodGanj, Dharamshala, District Kangra (H.P.), immediately.

ii) That the Respondents may be restrained from insisting upon the requirement of certificates of Bonafide of H.P., income proof, ration card, Parivar Nakal and caste certificate from the petitioners for the purpose of the allotment of shops, for their rehabilitation in the shops constructed for them.

iii) That the respondents may be restrained from making allotment of the shops in question to the persons other than the evicted including the petitioners in the shopping complex constructed on the Dalai Lama Temple Road, MacleodGanj, Dharamshala, H.P.

iv) That the (2024:HHC:7672) respondents may kindly be directed to conduct the election of TVC for electing the four representatives of the street vendors in the Town Vending Committee and thereafter the TVC of 11 members, may kindly be directed to be constituted strictly in accordance with the provisions of TVC Act.

V) That the Respondent No.3 may be directed to implement the provisions of the Street Vendors Act 2014, H.P. Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2016 hereafter referred as Rules 2016, H.P. Street vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2017(in short Schemes 2017), National Urban Livelihood Mission(NULM), Support to Urban Street Vendors(SUSV) etc. in their true letter and spirit w.e.t. to the Petitioners and other Street Vendors and Town Vending Committee be constituted as per Rules.

vi) That the Petitioners be also issued proper Certificates of Vending and Identify Cards in terms of the provisions of Section 3 of the Street Vendors Act 2014, and paras 3 to 7 of the H.P. Street vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2017.”

3 Following common order was passed in both the matters on 30.07.2024:-

“Learned counsel for Municipal Corporation in both the petitions submits that the eligibility of the petitioners for allotment under the Scheme cannot be determined at present as the petitioners have not supplied relevant documents to the Municipal Corporation to assess their eligibility. Learned counsel further submits that the petitioners be directed to furnish the documents for determining their eligibility for allotment.

Learned Senior Counsel for the petitioners submits that petitioners have no hesitation in going to the office of respondent-Municipal Corporation for submitting requisite documents for assessing their eligibility for allotment of shops. Let the needful be done within three weeks. Fresh report in this regard be submitted on the next date.

Learned Deputy Advocate General submits that respondents No.1 and 2 shall adopt the reply filed by respondent No.3.

List on 29.08.2024. Interim order to continue.”

3(i) CWP No. 4181/2023

In response to the aforesaid order, respondent No.3- Municipal Corporation Dharamshala has filed its compliance affidavit. Alongwith compliance affidavit, Minutes of Meeting of Document Verification Committee of Municipal Corporation Dharamshala, convened on 27.08.2024 for verification of the documents submitted by street vendors, have been enclosed. In terms of these minutes, following decision was taken in respect of petitioners in CWP No. 4181/2023:-

“V. CWP No. 4181 of 2023: Feraj Ram & Ors. Vs. State of H.P. & Ors.

The rest 41 petitioners of CWP No. 4181 of 2023 were not relocated by DMC as they were doing street vending without any intervention and are not affected by relocation for construction of vending market at Macleogganj, Dharamshala. They were advised to complete the documentation process before next street vendor’s survey and submit the same along with rest of the street vendors.”

In view of above, interest of justice would be served by issuing following directions:-

a) The process of survey in terms of Section 3(i) of Street Vending Act, 2014 (Act), be initiated within 3 months and be completed within 6 months thereafter on completion of all codal formalities.

b) After completion of the survey, further process under the applicable Act, Rules & Schemes be undertaken, more particularly, Sec-3, Sec-4, Sec-21, read with Schedule-I, Sec-22 to Sec-26 of the Act.

Ordered accordingly. The writ petition is disposed of in light of decision taken by the respondent-Municipal Corporation, Dharamshala read with directions issued herein thereupon. In view of above, the interim order dated 30.06.2023 passed in CWP No. 4181/2023 is vacated. Pending miscellaneous application(s), if any, shall also stand disposed of.

3(ii) CWP No. 6863/2023

In response to the common order passed on 30.07.2024, the compliance affidavit has been filed by respondent No.3-Municipal Corporation along with the Minutes of the Meeting dated 27.08.2024 of the Documents Verification Committee, Municipal Council Dharmashala, whereunder following decision was taken in respect of petitioners in CWP No. 6863/2023:-

"IV. CWP No. 6863 of 2023: Vinay Prasad & Ors. Vs. State of H.P. & Ors.

During document verification it was found that total 12 petitioners of CWP 6863 of 2023 were relocated during 1st phase of construction of vending market at Temple Road Macleodganj, Dharamshala. The document verification committee recommend all 12 No's of Vendors for allotment of vending stalls as these vendors were displaced for construction of 1st phase of vending market at temple road. These vendors were active in past and also participated in previous street vending survey done by DMC. These vendors need to submit their pending dues/fees to the corporation office before the allotment process and also have to submit any other document as required under the relevant Act, Rules and Scheme for the purpose of proper allocation of vending stalls within a stipulated time frame after the allotment which will be fixed by the house of the Municipal Corporation/Town Vending Committee."

In view of above, interest of justice would be served by directing that the respondents will not demand any document from the petitioners save & except as are required under the applicable Act, Rules, Bye-laws & Scheme regarding the Street Vendors.

4. This writ petition is also disposed of in above terms. Pending miscellaneous application(s), if any, shall also stand disposed of.

**Jyotsna Rewal Dua
Judge**

August 30th, 2024_(rohit)