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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 19th March, 2025
+ **W.P.(C) 3378/2025**

PARVESH KUMAR

.....Petitioner

Through: Mr. Aditya, Mr. Vipin Kumar, Ms. Pralika Chakraborty, Mr. Kailash Kumar Jha and Mr. Anjani Kumar Mishra, Advocates, Mob- 9818075966.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS

.....Respondents

Through: Ms. Anshula Bakhru, Advocate for R-1 & 2, Mob- 9818075966.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J.(ORAL)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner - Parvesh Kumar under Article 226 of Constitution of India seeking issuance of an appropriate writ declaring the seizure of goods of the Petitioner on 08th March, 2025 by Municipal Corporation of Delhi (hereinafter, 'MCD') officials illegal and directing the release of the seized goods.
3. The Petitioner is a street vendor, who vends his stall of fruits and vegetables. He states that he has been vending fruits and vegetables and other food items for the last several years.
4. According to the Petitioner, the said seizure of the goods by the MCD is in contravention to the Street Vendors (Protection Of Livelihood And Regulation Of Street Vending) Act, 2014 and the Street Vendor (Protection



of Livelihood & Regulation of Street Vending) Scheme, 2019 enacted by the GNCTD.

5. The case of the Petitioner is that he has been issued a certificate of vending by the South Delhi Municipal Corporation bearing no. URI:2340024 on 6th November, 2021, which allowed him to vend in Najafgarh Zone, Ward-S-50.

6. The Petitioner had earlier filed a petition being **W.P. (C) 9892/2023** wherein he had been permitted to vend in terms of his certificate. The observations of the Court in the said order are set out below:

“8. In view of the foregoing, learned counsel appearing on behalf of the petitioner, limits the relief in the present writ petition, to a direction to the Municipal Corporation of Delhi, to permit the petitioner, to continue to vend within Najafgarh Zone, Ward S-50, 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 allowed; **and the Municipal Corporation of Delhi is directed to permit the petitioner, to vend within Najafgarh Zone, Ward S-50, subject to the terms and conditions of the said certificate of vending dated 06.11.2021, without any let or hindrance.***

10. No further directions are prayed for.”

7. Thereafter, the Petitioner has continued to vend his wares in the Najafgarh Zone.

8. It is the grievance of the Petitioner that recently on 8th March, 2025 the officials of the MCD visited the vending site of the Petitioner and seized his goods. As per the Petitioner, no notice was issued for the said seizure and the procedure in terms of the Street



Vendors (Protection Of Livelihood And Regulation Of Street Vending) Act, 2014 was also not followed.

9. The Petitioner filed an application on 10th March 2025 before the Deputy Commissioner, Najafgarh Zone, MCD for release of the seized goods and to take action against the MCD Officials. No action was taken on the said application. Hence the present petition. The prayers in this petition are as under:

“In the facts and circumstances stated herein above, it is Most Respectfully prayed that this Hon'ble Court may graciously be pleased to:

I. Pass an order declaring the action of the MCD to seize the goods of the petitioner as illegal and arbitrary.

II. Pass an order directing the respondents to release the goods of the petitioner seized by the MCD on 08.03.2025 from the vending site of the petitioner.

III. Pass an order directing the Commissioner, Municipal Corporation of Delhi, respondent no. 1 to issue direction to all the zones of the MCD to follow the procedure laid down under the Street Vendors Act, 2014 and Street Vendors Scheme, 2019 for seizure of the goods of the street vendors.

IV. Pass any such directions or order that this Hon'ble Court deems fit and proper in the facts and circumstances of the above-mentioned case.”

10. Mr. Aditya, Id. Counsel for the Petitioner, relies upon the earlier decision passed in favour of the Petitioner in ***W.P. (C) 9892/2023*** and also two decisions of this Court in ***Vimla Devi Vs. Municipal Corporation of Delhi and Ors in W.P. (C) 2591/2024 decided on 21st February 2024*** and ***Shambhu Bhardwaj and Ors Vs. Municipal***



Corporation of Delhi and Ors in W.P. (C) 11748/2024 decided 29th August 2024, to argue that whenever such action of seizure has been taken by the MCD, this Court has directed the MCD to return the goods confiscated and permitted the vendor to vend in terms of the license which has been given. The relevant portion of the said judgments reads as under:

Vimla Devi Vs. Municipal Corporation of Delhi and Ors in W.P. (C) 2591/2024

“5. In view of the above, we consider it apposite to dispose of the petition by directing the MCD to release the confiscated goods of the petitioner since the procedure prescribed has not been followed. We further direct that the petitioner shall not be disturbed from carrying on vending activities provided she does so in strict compliance of the terms and conditions of the COV. The pending application also stands disposed of.”

Shambhu Bhardwaj and Ors Vs. Municipal Corporation of Delhi and Ors in W.P. (C) 11748/2024

“16. No further orders are required to be passed at this stage. We, however, observe that it would be apposite for the MCD to issue a prior notice for any proposed action of demolition in order to enable the street vendors to voluntarily remove their structures.”

11. According to Id. Counsel, the Court in the said decisions has also held that without notice such an action cannot be taken.

12. On the other hand, Ms. Anshula Bakhru, Id. counsel appearing



for the MCD submits that the matter is covered by the decision of the Co-ordinate Bench of this Court in *Prabhat Sharma Vs. MCD and Ors.* in *W.P.(C) 3570/2024* dated 30th April 2024, wherein the Court has recognized that under Section 322 of the Delhi Municipal Corporation Act, 1957, the MCD authorities do have the power to seize the goods. The observations of the Court are set out below:

“22. In so far as the petitioner's challenge that the seizure of his goods is without any authority of law is concerned, it is relevant to refer to Section 322 of the Delhi Municipal Corporation Act, 1957 (hereafter the MCD Act) which reads as under: -

“322. Power to remove anything deposited or exposed for sale in contravention of this Act. -- The Commissioner may, without notice, cause to be removed-

(a) any stall, chair, bench, box, ladder, bale or other thing whatsoever, placed, deposited, projected, attached or suspended in, upon, from or to any place in contravention of this Act;

(b) any article whatsoever hawked or exposed for sale on any public street or in other public place in contravention of this Act and any vehicle, package, box or any other thing in or on which such article is Placed.”

23. It is apparent from a plain reading of Section 322 of the MCD Act that MCD does have the powers to remove articles as specified, which have been placed for sale in contravention of the provisions of the MCD Act.

24. It is also relevant to refer to Section 326 of the MCD Act, which is set out below:-

"326. Disposal of things removed under this Chapter (1) Any of the things caused to be removed by the Commissioner under this Chapter shall, unless the owner thereof turns up to take back such thing and pays to the Commissioner the charges for the removal and storage of



such thing, be disposed of by the Commissioner by public auction or in such other manner and within such time as the Commissioner thinks fit.

(2) The charges for removal and storage of the thing sold under sub-section (1) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the thing sold on a claim being made therefor within a period of one year from the date of sale, and if no such claim is made within the said period, shall be credited to the Municipal Fund."

*25. In terms of Section 326 of the MCD Act, the person whose goods are seized, is entitled to recover the same on payment of removal charges and storage charges. In our view the said provisions are applicable, as in absence of the machinery provisions of Sections 18 and 19 of the Act being applicable, the provisions of the MCD Act would necessarily apply. **Thus, MCD has the powers under Section 322 of the Delhi Municipal Corporation Act, 1957, to remove the goods and articles which are placed for selling the same, in contravention of the MCD Act.***

26. In view of above, we are of the view that the reliefs sought for in the petition cannot be granted. The petition is accordingly dismissed."

13. The Court has considered the matter and heard Id. Counsels. The vending certificate bearing no. URI 2340024 of the Petitioner (Annexure P4) clearly records that he is permitted to vend fresh fruits and vegetables in Najafgarh Zone, Ward-S-50. The same has various conditions which are set out below:

"Terms & Conditions of the Vending Certificate

- 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.”



14. A perusal of the above conditions shows that the vendor cannot stay or vend for more than 30 minutes in a particular site within the vending zone. Various other conditions have also been stipulated in the said vending certificate.

15. If the MCD finds that the vendor is violating these conditions, then the MCD is free to take action in accordance with law.

16. Further, this Court is of the opinion that whenever any goods are seized, a receipt ought to be issued to the person from whom such seizure is effected, inasmuch as without the receipt, there would be no proof of the goods which have been seized and the value of the goods would not be determinable.

17. Under these circumstances, Id. Counsel for the Respondent submits that the receipt would be issued within two days and the goods which are not perished and were seized on 8th March 2025, shall be released to the Petitioner subject to payment of nominal charges. Ordered accordingly.

18. The writ petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 19, 2025/da/ck