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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 31.05.2024*

+ **W.P.(C) 493/2024 CM APPL. 2172/2024**

**RADHEY SHYAM CHOPRA & ORS. .... Petitioners**

Through: Mr. Ashok Kumar Chhabra, Advocate  
with Petitioners in person.

versus

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

Through: Ms. Shilpa Ohri, ASC for MCD.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**TARA VITASTA GANJU, J.: (ORAL)**

1. The Petitioners (21 in number) have filed the present petition impugning re-allocation letters issued to them by Respondent No.1/MCD, whereby the Petitioners' *Tehbazari* shops situated at Babu Market were relocated to Mata Sundari Road, Ward No. 88, Delhi.

2. The Petitioners were informed that the North Delhi Municipal Corporation (since merged with Municipal Corporation of Delhi – MCD) had approved redevelopment/reconstruction of multi-level underground car parking at Gandhi Maidan, City S.P. Zone. Accordingly, the Petitioners were allocated the *Tehbazari* sites in terms of the details as set forth in the table below:-

S.No.	Name of Petitioner	Date of mutation letter	Date of Relocation letter	Details of sites
1.	Petitioner no. 1	07.04.2022	18.04.2022	Mutation of tehbazari



	Radhey Shyam Chopra			Site no.3462 measuring '7X5' (covered)
2.	Petitioner no. 2 Himanshu Chopra	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3411 measuring '7X5' (covered)
3.	Petitioner no. 3 Harish Kumar Wadhwa	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3428 measuring '7X5' (covered)
4.	Petitioner no. 4 Mukesh Kumar	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3406 measuring '7X5' (covered)
5.	Petitioner no. 5 Mrs. Babita Wadhwa	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3473 measuring '7X5' (covered)
6.	Petitioner no. 6 Inderjit Singh	20.04.2022	28.04.2022	Mutation of tehbazari Site no.3480 measuring '7X5' (covered)
7.	Petitioner no. 7 Mrs. Sonia Ahuja	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3456 measuring '7X5' (covered)
8.	Petitioner no. 8 Mrs. Mohini Devi	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3519 measuring '7X5' (covered)
9.	Petitioner no. 9 Kishore Kumar	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3459 measuring '7X5' (covered)
10.	Petitioner no. 10 Mrs. Shaheen	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3427 measuring '7X5' (covered)
11.	Petitioner no. 11 Mohd. Faheem Shah	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3490 measuring '7X5' (covered)
12.	Petitioner no. 12 Mushir Ahmed	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3542 measuring '7X5' (covered)
13.	Petitioner no. 13 Sukh Dev	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3441 measuring '7X5' (covered)
14.	Petitioner no. 14 Mrs. Rekha	09.02.2022	11.02.2022	Mutation of tehbazari Site no.3439 measuring '7X5' (covered)
15.	Petitioner no. 15 Ms. Lakhi	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3539 measuring '7X5' (covered)



16.	Petitioner no. 16 Avdlesh	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3464 measuring '7X5' (covered)
17.	Petitioner no. 17 Smt. Parul Sharma	30.03.2022	18.04.2022	Mutation of tehbazari Site no.3436 measuring '7X5' (covered)
18.	Petitioner no. 18 Gurdev Sharma	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3500 measuring '7X5' (covered)
19.	Petitioner no. 19 Kishan Kumar	07.04.2022	18.04.2022	Mutation of tehbazari Site no.3448 measuring '7X5' (covered)
20.	Petitioner no. 20 Shri Ravi	18.04.2022	20.04.2022	Mutation of tehbazari Site no.3477 measuring '7X5' (covered)
21.	Petitioner no. 21 Anwar	20.04.2022	28.04.2022	Mutation of tehbazari Site no.3400 measuring '7X5' (covered)

3. It is the grievance of the Petitioners that when they reached their respective sites, they were not allowed to carry out their work of *Tehbazari* peacefully and that the Respondents interfered in the construction of their '7X5' covered sites. The Petitioners further contend that subsequently, their sites were demolished by Respondent No.1/MCD on 15.09.2023 and since that time, they have been unable to carry out their *Tehbazari* work.

4. A Status Report dated 28.05.2024 (hereafter '**Status Report**') was filed by Respondent No.1/MCD. The said report indicates that the Petitioners who were *Tehbazari* holders at Babu Market, were displaced on receipt of approval from the Competent Authority on 02.04.2018 for construction of multi-level car parking facility at such site.

5. It is stated in the Status Report that the physical sites could not be handed over to those persons in view of a Notification issued by the



Government of NCT, Delhi on 17.09.2019 constituting the Town Vending Committee (hereafter 'TVC') in terms of Rule 13 of the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017 (hereafter '**the Rules**'). Relying on Section 18 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter '**Street Vendors Act**'), it is contended that the allotment of a sites has not been made operational as the survey of the street vendors has not been completed so far. It is further stated that the Competent Authority has directed to keep all relocation letters issued after 17.09.2019 in abeyance until the subsequent TVC (**TVC-II**) is constituted. Sub-paragraphs 4, 6 and 7 of the Status Report are relevant and are set out below:-

*"4. That, issuance of the Relocation Letter could not result into allocation of physical site to the petitioner due to notification of Town Vending Committee (TVC) by Govt. Of NCT of Delhi on 17.09.2019. Copy of the letter dated 17.09.2019 is annexed herewith as ANNEXURE-'A'. As per Rule 13 of the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017, the mandate of the initial Town Vending Committee may be seen as below:-*

*".....that the initial Town Vending Committee will discharge its function as for the purpose of survey and the issue of Certificate of vending and it shall ensure that once the survey is complete, the elections are conducted within six months."*

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*6. That as per above provision of Section 18, the TVC mandated for the purpose of relocation, allotment of site is still to be operational as survey of the street vendors has not been completed so far. As per Rule 13 of the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017, the mandate of the initial Town Vending*



*Committee may be seen as below:-*

*“.....that the initial Town Vending Committee will discharge its function as for the purpose of survey and the issue of Certificate of vending and it shall ensure that once the survey is complete, the elections are conducted within six months.”*

*7. That as per above provision of Section 18, the TVC mandated for the purpose of relocation, allotment of site is still to be operational as survey of the street vendors has not been completed so far. As a matter of fact, as on date the subsequent TVC, which have to decide over allotment/relocation of tehbazari, presently is not operational/functional. Therefore, in the fitness of things, the competent authority has directed to keep all relocation letters issued after 17.09.2019 to be kept in abeyance. On operationalization of the subsequent TVC, these cases may be placed before them for consideration of relocation.”*

6. In addition, the Status Report sets out that the Respondent No.1/MCD has filed an appeal against an order dated 15.02.2024 passed by this Court in the matter of a similarly placed *Tehbazari* holder relocated from Bapu Market in Delhi, being ***Ramesh Gupta v. Municipal Corporation of Delhi and Another***: W.P.(C) 9225/2023, and on that ground requests that the hearing of this petition be deferred. Admittedly, there has been no hearing in the appeal.

7. Undisputedly, the Petitioners are entitled to a *Tehbazari* site at Mata Sundari Road. However, the Petitioners and other similarly situated *Tehbazari* holders have not been relocated/rehabilitated because the mandate to make a TVC in terms of Section 21 of the Street Vendors Act and according to Rule 15 of the Rules, the vending plan is required to be made by the local authorities in consultation with the TVC.



8. Section 18 of the Street Vendors Act is also relevant, which reads as under:-

*“18. Relocation or eviction of street vendors.-(1) The local authority may, on the recommendations of the Town Vending Committee, declare a zone or part of it to be a no-vending zone for any public purpose and relocate the street vendors vending in that area, in such manner as may be specified in the scheme.*

*(2) The local authority shall evict such street vendor whose certificate of vending has been cancelled under section 10 or who does not have a certificate of vending and vends without such certificate, in such manner as may be specified in the scheme.*

*(3) No street vendor shall be relocated or evicted by the local authority from the place specified in the certificate of vending unless he has been given thirty days' notice for the same in such manner as may be specified in the scheme.*

*(4) A street vendor shall be relocated or evicted by the local authority physically in such manner as may be specified in the scheme only after he had failed to vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice.*

*(5) Every street vendor who fails to relocate or vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice, shall be liable to pay for every day of such default, a penalty which may extend up to two hundred and fifty rupees, as may be determined by the local authority, but shall not be more than the value of goods seized.”*

9. Since, in the present case, the TVC has not completed the survey as yet and a vending plan has not been put in place, the relocation of the Petitioners is effectively interdicted.



10. We are however unable to accept that the process of relocation of the Petitioners could be interdicted midway as has been done by the Respondents.

11. It is the contention of the Petitioners, as noted above, that the 21 Petitioners were allocated their sites and that they constructed their *Tehbazari* booths on these allocated sites which were subsequently demolished by the Respondent No.1/MCD. It is also averred that the Petitioners have deposited the mutation fee in the sum of Rs. 1,21,000/- with the Respondent No.1/MCD.

12. Prior to the issue of relocation letters, the 21 Petitioners were also issued a '*change of hand/mutation of tehbazari site letters*' (hereafter '*Mutation letters*') on various dates between 30.03.2022 and 20.04.2022. these Mutation letters also set out the terms and conditions of the relocation, which terms are identical to those set out in the Relocation letter. These letters being *pari materia* to each other, the extract of one such letter, setting out the terms and conditions of the relocation, is below:-

*"It is informed you that the recommendation of committee dated 03.01.2022 (after scrutinization of the documents submitted by the applicants for relocation) has been approved by DC/CSPZ vide order dated 03.01.2022 to allow Change of Hand/Mutation of tehbazari rights of Site No. 3462 measuring '7X5' (Covered) at Bapu Market, Delhi in favour of Sh. Radhey Shyam S/o Late Sh. S.L. Chopra in Change of Hand/Mutation subject to the terms and conditions contained in scheme of MCD for Squatter/Hawkers-2007, Circular No. CL&EC/TTR/2009/532 dt 09.10.2009 an all the following terms and conditions:-*

- 1. That you will pay the tehbazari fees regularly.*
- 2. That you will not encroach upon the municipal land/Govt. Land beyond allotted size.*
- 3. That you will not sell any obnoxious, polluted, hazardous, inflammable and banned or any other item, which create*



*nuisance to public.*

*4. That you will not run any Dhaba etc. and also will not be allowed to cook/manufacture any food articles at the tehbazari site.*

*5. That your tehbazari is purely temporary and you will have to vacate the site for any Govt. work or in a public interest as and when required by MCD.*

*6. That the tehbazari rights have been change of hand/transfer on the basis of information and documents supplied by you and in the event of any dispute regarding mutation, the tehbazari rights are liable to be cancelled at your risk and cost.*

*7. That you will abide by other terms and conditions issued by MCD from time to time.*

*8. That you will not sell/let out/sub-let the tehbazari site under any circumstances.*

*9. That failure to comply with the above terms and conditions will lead to cancellation of your tehbazari rights.”*

13. The Petitioners have also issued a representation to the Respondent No.1/MCD wherein their contention that their re-allocated *Tehbazaris* have been demolished on 15.09.2023 has been reiterated.

14. It is clear from the facts on record that the process of eviction and re-allocation was contemplated as a singular process with allotment of a new site following their removal from their sites. The Petitioners had been evicted from their *Tehbazari* sites for being relocated at new sites. Thus, the contention that since the TVC has been constituted, after the Petitioners were removed and before they could be relocated appears to be incorrect. The Petitioners would forfeit their right to carry on trade and earn their livelihood. This is, plainly, unacceptable. The relocation process could not be stopped midway.

15. In view of the above, we consider it apposite to direct the Respondents





to give possession of the new sites in terms of the relocation letter as expeditiously as possible and in any event within a period of four weeks from date.

16. However, we also clarify that the Petitioners shall not carry out any permanent construction on the allocated sites, which are purely temporary sites and that the handing over of possession of these new sites would not create any equities in favour of the Petitioners in respect of the said site. The allocations would be subject to any further plans or schemes that may be framed as and when the recommendations are made by the TVC-II.

17. We clarify that this order is only for the purposes of ensuring that the Petitioners are not deprived of their livelihood at the present stage. This would not preclude the TVC or the NDMC from relocating or evicting the Petitioners in terms of a vending plan or a scheme that may be framed subsequently.

18. The learned counsel appearing for the Petitioners also confirms, on instructions of the Petitioners, who are present in Court that the Petitioners would not claim any right in the new sites, possession of which would be handed over in terms of the said order.

19. The petition is disposed of in the aforesaid terms. Pending application also stands disposed of.

20. Parties will act based on the digitally signed copy of the order.

**VIBHU BAKHRU, J**

**TARA VITASTA GANJU, J**

**MAY 31, 2024/pa**