

(Exemption) Najafgarh Fruits And ... vs Govt. Of Nct Of Delhi & Ors on 15 September, 2021

Author: Jyoti Singh

Bench: Chief Justice, Jyoti Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ LPA 323/2021 & CM APPLs.31677/2021 (for stay) & 31678/2021 (exemption)

NAJAFGARH FRUITS AND VEGETABLES WHOLE SALE
SELLERS & ADHITEY ASSOCIATION SABZI MANDI,
NAJAFGARGH NEW DELHI & ORS. Appellants
Through: Ms. Latika Choudhury, Advocate

versus

GOVT. OF NCT OF DELHI & ORS. Resp
Through: Mr. Shadan Farasat, Additional
Standing Counsel, Government of NCT of De
with Mr. Shourya Dasgupta and Mr. Bharat
Advocates for Respondent No.1.
Mrs. Avnish Ahlawat, Standing Counsel,
Government of NCT of Delhi (Services) wit
Mrs. Tania Ahlawat, Mr. Nitesh Kumar Sing
Ms. Palak Rohemetra, Advocates for Respon
No.2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% 15.09.2021 CM APPL.31678/2021 (exemption) Allowed, subject to all just exceptions.

The application is disposed of.

LPA 323/2021 & CM APPL.31677/2021 (stay) Issue notice.

Mr. Shadan Farasat, learned Additional Standing Counsel accepts notice on behalf of Respondent No.1.

Mrs. Avnish Ahlawat, learned Standing Counsel accepts notice on behalf of Respondent No.2.

Learned counsels appearing for Respondents No.1 and 2 seek time to file reply.

Time as prayed for is granted.

Let reply be filed before the next date of hearing. Issue notice to Respondents No.3 to 5, through ordinary process, returnable on 22.10.2021.

Learned counsel appearing on behalf of the Appellants submits that the Appellants were shifted to Bhagat Singh Market in the year 1975 and again shifted in 1980 to Bahadurgarh-Najafgarh Road near DTC Bus Terminal and since then, they had been carrying on their trade of selling fruits and vegetables, catering to a large population in the surrounding areas. Farmers of the nearby 70 villages sold their vegetables to the whole-sellers in Najafgarh Subzi Mandi from where those were sold to the retailers. Issue of allotment of land to three Mandis by APMC arose in 2014, however, by Notification dated 02.09.2014, the Mandis were de-notified and licenses were not renewed. Appellants herein as well as traders of the other two Mandis challenged the Notification in W.P.(C) Nos.7841/2014, 8176/2014 and 4445/2015 wherein vide orders dated 28.01.2015 and 05.05.2015, this Court directed the Respondents to maintain status quo in regard to their vending on the original location.

It is further submitted that in view of the lockdown imposed due to COVID-19, in order to ensure social distancing, SDM, Najafgarh passed an order on 10.04.2020 to shift the entire Subzi Mandi from the main Bahadurgarh Jarodha Road to alternate place at Khasra No.17, Village Haibatpur, opposite to Anaj Mandi and a DTC Terminal. On 17.05.2021, the whole-sellers as well as retailers from the said location were again shifted to an open space opposite Delhi Jal Board, 5, MGD, STP, Village Masoodabad. However, once again within a period of two months, vide order dated 16.07.2021, Respondent No.1 suddenly withdrew the permission of shifting to the area opposite Delhi Jal Board, without offering and allocating an alternate space. This order was challenged by filing a writ petition, being W.P.(C) 6882/2021. During the pendency of the petition, Respondents sought to pass yet another order directing the Appellants to shift to the original place i.e. Bahadurgarh Jarodha Road, without considering the fact that post April, 2020, situation had changed considerably at the original location inasmuch as the space had been occupied by several other vendors, leaving no space for the Appellants. Secondly, the road has been declared as 'No Entry Zone' for commercial vehicles from 7.00 a.m. to 11.00 p.m. and, therefore, the trucks carrying vegetables from the farmers were not allowed. The problem is further aggravated by the fact that a divider has been constructed in the middle of the road, on account of which the road has become extremely narrow, making it impossible for the farmers and vegetable traders to even park their vehicles to load and unload the vegetables. It is thus submitted that the learned Single Judge has, without appreciating the said difficulties of the Appellants, directed them to vacate the premises in question as per the directions of Respondent No.1.

We have heard the learned counsel for the Appellants and perused the impugned order as well as the earlier status quo order passed by this Court in the aforementioned writ petitions.

We are of the view that the Appellants have made out a prima facie case for grant of interim relief and balance of convenience is also in favour of the Appellants. It is, therefore, directed that operation of the impugned order dated 09.09.2021 passed by the learned Single Judge in W.P.(C)

6882/2021 as well as the impugned orders dated 16.07.2021 and 28.07.2021 passed by Respondent No.1 shall remain stayed, till the next date of hearing and status quo shall be maintained by Respondent No.1.

CHIEF JUSTICE JYOTI SINGH, J SEPTEMBER 15, 2021 kks