

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 3591 of 2016**

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DHULABHAI NANJIBHAI MARWADI & 26 other(s)

Versus

STATE OF GUJARAT & 2 other(s)

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Appearance:

MR NK MAJMUDAR(430) for the Petitioner(s) No.

1,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,3,4,5,6,7,8,9

MR SAHIL TRIVEDI, AGP for the Respondent(s) No. 1

NANAVATI & CO.(7105) for the Respondent(s) No. 2

NOTICE SERVED for the Respondent(s) No. 3

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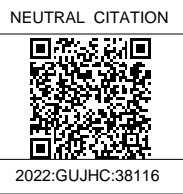
CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**Date : 05/08/2022****ORAL ORDER**

1. At the outset, learned advocates appearing for the respective parties have submitted that if the directions issued in the order dated 27.07.2022 passed in Special Civil Application No.2064 of 2019, which pertain to the same Corporation relating to different area, are passed, the same would suffice.

2. In the present writ petition, the petitioners are seeking the following reliefs:-

13. B) Issue appropriate writ, order or direction and be pleased to quash and set aside the illegal, illogical, discriminatory, arbitrary, action of the respondent authorities of not permitting the petitioners to do their business at their original place near Kamati Garden, Vadodara, i.e. near the Gates/Entrance Nos.3 and 4 and, therefore, the said action be declared as illegal, illogical, discriminatory, arbitrary;

C) Issue appropriate writ, order or direction and be pleased to direct the respondent authorities to allow the petitioners to do their business at their original place as per Sec. 3(3) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, and as per the



directions issued by the Hon'ble Apex Court in Para-16(xv) of the judgment and order dt.9/9/2013 passed in group of Appeals Nos.4156-4157/2002 till the procedure of earmarking hawking zones is being completed and the petitioners are allotted fresh licenses in newly area and till the procedure enumerated u/s.3(1) is being completed.

D) grant interim relief and by way of interim relief be pleased to direct the respondent authorities to permit the petitioners to do their petty business near Kamati Garden compound wall of Vadodara City pending admission and final disposal of this petition.”

3. This Court, while examining an analogous issue after considering the affidavit of the same Corporation, has observed thus:-

“5. Pursuant to the notice issued by this Court, the respondent No.2 has filed an affidavit by stating thus:-

“6. I say that the present petitioners had made a representation to the Municipal Corporation, and in connection with such representation they were heard by the Municipal Commissioner of the Corporation on 19.11.2019. During the meeting, the petitioners were apprised of the fact that Vadodara Municipal Corporation is bound by law to not allow/permit anyone to carry out activities of street vending in non-hawking zone and further assured that all the petitioners shall be relocated to hawking zone immediately after the finalization of the hawking zones under the Act. The petitioners, however, insisted on being given the same place from where they have been removed and were not willing to accept relocation. Consequently, the representation of the petitioners has been rejected by the Corporation. A copy of hearing notice sent to one of the petitioners is annexed herewith and marked as Annexure-R1. A copy of the written demand of the petitioners to be allotted the same place is annexed herewith and marked as Annexure R2. A copy of the order passed by the Corporation on the representation of petitioners after hearing them is annexed herewith and marked as Annexure R3.

Without prejudice to the aforesaid decision of the Corporation, I say that the Corporation is still ready and willing to give alternative hawking space to the petitioners in an area or place declared as hawking zone under the court approved scheme, subject to availability of space in the said area. I further declare that the Corporation is willing to consider further relocation of the petitioners and



other similarly situated hawkers in areas which are identified as hawking zone under the Act at a future date. Such option is propose to be given by the Corporation to all the hawkers by adopting judicious method in accordance with law.”

6. It is specifically mentioned in the affidavit that the Corporation is ready and willing to provide an alternative hawking place in the area or place declared as hawking zone under the court approved, subject to availability of space in the said area. It is further declared that the Corporation is willing to consider further relocation of the petitioners and other similarly situated hawkers in the areas, which are identified as hawking zone under the Act at a future date. The writ petitions have been field in the year 2019 and even after passage of three years, the petitioners have been waiting for allotment of the space, in which, they may carry out the activity of street vending.

7. Under the circumstances and in light of the aforesaid statement made by the respondent Corporation on the affidavit, the respondent Corporation is directed to allot a hawking place to the petitioners, which may be suitable to them. If necessary, the respondent Corporation may give options to them, so that their livelihood is not jeopardized. The petitioners are directed accordingly to make a representation(s) to the respondent Corporation. The respondent Corporation shall accordingly take decision on the representation and allot the hawking space in the hawking zone. The entire exercise shall be carried out within a period of six (06) weeks. It goes without saying that the options, which may be offered by the respondent Corporation, will be confined to the hawking zone. Liberty is reserved in favour of the petitioners to revive the matters, in case of any difficulty.”

4. Learned advocate Mr.Maulik Nanavati appearing for the respondent-Corporation has submitted that the Corporation is ready and willing to give an alternative hawking place in the area or place declared as “hawking zone” under the court approved, subject to availability of space in the said area.

5. Under the circumstances and in light of the aforesaid statement made by the respondent Corporation, the respondent Corporation is directed to allot a hawking place to the petitioners, which may be suitable to them. If necessary, the respondent Corporation may give options to



them, so that their livelihood is not jeopardized. The petitioners are directed accordingly to make a representation(s) to the respondent Corporation. The respondent Corporation shall accordingly take decision on the representation(s) and allot the hawking space in the hawking zone. The entire exercise shall be carried out within a period of six (06) weeks. It goes without saying that the options, which may be offered by the respondent Corporation, will be confined to the hawking zone. Liberty is reserved in favour of the petitioners to revive the matters, in case of any difficulty.

6. The writ petition stands disposed of accordingly.

(A. S. SUPEHIA, J)

ABHISHEK/20