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In the Court of State Commissioner for Persons with Disabilities
National Capital Territory of Delhi
25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-2
Phone-011-23216002-04, Telefax: 011-23216005, Email: comdis.delhi@nic.in
[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]

Case No. 4/1628/2017-Wel./CD/ 4045-47

Dated: 31/01/18

In the matter of:

Smt. Ruby Mishra
Shop No-8, Bangla Sahaib Gurudwara,
VMCA, New Delhi-110001

..... Petitioner

Versus

The Chairman,
New Delhi Municipal Council,
Palika Kendra Parliament Street,
New Delhi-110001

..... Respondent No.1

Head Granthi
Bangla Sahib Gurudwara
YMCA, New Delhi-110001

..... Respondent No. 2

Date of Hearing 24.01.2018

Present: Smt. Ruby Mishra, Complainant.
Mr. N.L. Chawla, Jt. Director (Enforcement),
Ms. Harmeet Kaur, Advocate on behalf of the
respondent No. 1 and 2 respectively.

ORDER

The above named complainant, a person with 52% locomotor disability vide her complaint dated 04.05.2017 submitted that she is a

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social worker and she sells Tea, Bread Pakora on a small space at Bangla Sahib Gurudwara near YMCA. The respondent no. 2 causes obstruction and she is being harassed for the last one year and gets her articles removed. She is also threatened of police action. The complainant also alleged malpractice and added that the small shop is the only source of her livelihood. She has further submitted that many other people sell items from that area which belongs to NDMC. While they are not disturbed, she is being harassed although she has a written order of Chairman, NDMC.

2. The complaint was taken up with the respondents vide notice dated 03.07.2017. Respondent No. 2 vide reply dated 03.07.2017 denied the allegations and submitted inter-alia that there are illegal constructions around the site of the Gurudwara. Bad elements assemble near the shop and create nuisance for the visitors. They are also using gas cylinder which is hazardous for the pilgrims visiting Gurudwara every day. The Complainant has also occupied an area in an unauthorised manner. Therefore, a letter was sent to the Chairman, NDMC and was approached for removal of the encroachment. If the encroachment was not stopped, the whole area including the Toilet Site of the Gurudwara would be occupied by unauthorized occupants. DSGMC and Gurudwara Rakab Ganj Sahib is receiving complaints all the time even from High Dignitaries and Advocates etc. who are visiting the Gurudwara regarding obstruction and nuisance created by unauthorized occupants.

3. Respondent No. 2 further submitted that the Rights of Persons with Disabilities Act, 2016, under which the complaint has been filed by the complainant, nowhere mentions that the persons with disabilities will occupy the public premises, open shop and start business in an

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unauthorized manner. The complainant is approaching this Court for sympathy and she may not be allowed to run the tea shop near Gurudwara. There is no threat by Gurudwara Head Granthi for taking away the shop material of the complainant and deprivation of the rights of persons with disabilities.

4. During the hearing on 24.01.2018, the complainant stated that she continues to sell the items from her stall. However, the Health and Enforcement Department of NDMC had taken away her articles and imposed heavy fine, which should be reduced.

5. The Ld. Counsel for respondent no. 2 reiterated the written submissions and added that the Head Granthi of Bangla Sahib Gurudwara, Gyani Ranjeet Singh has not removed any items of the vendors including the complainant. Gurudwara is concerned only about safety and security of the visitors.

6. The representative of NDMC submitted that Govt. of NCT of Delhi has given clearance for constitution of the Town Vending Committee (TVC) and a meeting has been scheduled on 24.01.2018 for implementing the orders of the GNCTD. Once the TVC is constituted, the matter of the vendors with disabilities in NDMC area will be decided early by the TVC.

7. The issues concerning the plight of vendors with disabilities in the NCT of Delhi have been discussed while disposing of the complaints of a large number of persons with disabilities in case No. 4/1233/2016-Wel/CD. Vide order dated 27.07.2017 in that case, one of the recommendations of this court is that persons with disabilities who were vending as on 13.09.2013 should not be disturbed and be allowed to earn their livelihood by selling various items.

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8. It is observed that the complainant applied for Tehbazari site vide application dated 30.11.2007 and has been vending since the year 2000. She is thus, covered under para 5(i) of the said order dated 27.07.2017. Therefore, as recommended in that order, she should not be disturbed and allowed to earn her livelihood by selling various articles. A copy of the order dated 27.07.2017 is enclosed with order for ready reference.

9. It is also observed that the complainant is in the list of 100 persons with disabilities who have applied for certificate of vending in NDMC area. It is expected that TVC will decide her case considering her disability and gender.

10. The complaint is disposed off accordingly.

11. Given under my hand and the seal of the Court this 31st day of January, 2018.



State Commissioner for Persons with Disabilities


(T.D. Dhariyal) 31/1/18

Encl: Copy of order dated 27.07.2017

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