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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. 4/634/2014/Wel./CD/1755-58 Dated: 08/09/2017

In the matter of:

Sh. Om Prakash
DMS Booth No. 77
Sanatan Dharam Mandir
Laxmibai Nagar
New Delhi-110023

..... Petitioner

Versus

The Chairman
New Delhi Municipal council
Palika Kendra
Parliament Street
New Delhi-110001

.....Respondent- 1

Asstt. Commissioner of Police(Laxmibai Nagar)
Safdarjung Enclave Police Station
Delhi

.....Respondent- 2

Date of Hearing: 28.08.2017

Present: Sh. Om Prakash, the complainant
Sh. Naheem Ahmed, Sh. Ishwar Singh, Sh. Anoop Singh, Inspectors of NDMC

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

ORDER

The above named complainant, a person with 56% locomotor disability vide his complaint received on 22.04.2014, submitted that he was allotted a DMS booth in Laxmibai Nagar, 14 years ago. There is an NDMC Kiosk close by which was sold out by the original allottee to another person who keeps a variety of goods on the footpath and creates garbage all around. The complainant also alleged that the said persons abuses him and intimidates him. His daughter and son-in-law also used derogatory language against the complainant. He also alleged that the said person has the support of NDMC and the Police.

2. The complaint was taken up with the respondents vide notice dated 13.05.2014 followed by 08.08.2014 and hearings on 01.07.2014, 30.10.2014, 19.11.2014, 19.01.2015, 23.02.2015, 30.03.2015, 29.04.2015, 30.06.2015, 30.07.2015, 01.09.2015, 01.10.2015, 02.11.2015, 23.05.16 and 29.07.2016.

3. Respondent No. 1 submitted a copy of sealing MEMO dated 29.07.2015 issued to Sh. Harjeet Singh Ahluwalia and Sh. Mohan Singh (unauthorised occupants of Kiosk No. 56, Laxmibai Nagar). The complainant again alleged harassment by Sh. Satinder Bhati. Thereafter the Respondent No. 1 was directed to increase frequency of raids.

4. The Office of Dy. Commissioner of Police, South District vide letter dated 15.11.2016 informed that the Investigating Officer of P.S. Sarojini Nagar seized the articles of Mr. Neeraj Kumar and deposited the same into police stations malkhana. Beat Constable has been directed to keep the watch and hence no further action was required. A copy of the report of the Police was sent to the complainant for his comments vide

letter dated 09.01.2017. The complainant vide his letter received on 30.05.2017 inter alia stated that Sh. Satinder Bhati on one pretext or the other tries to harass him.

5. A copy of the complainant was also received from the office of Chief Commissioner for Persons with Disabilities who had received an e-mail from Sh. Gajendra Narayan Karna, regarding case.

6. It is observed from the papers in the case file that Kiosk No. 56, at Laxmi Bai Nagar Market, Near DMS Booth was seemingly allotted to Sh. Harjeet Singh who is stated to have expired. The shop was being run by him and one Sh. Mohan Singh under some agreement and thereafter by Sh. Satinder Bhati. As per the report of the Office of the Dy. Commissioner of Police, South District dated 22.11.2016, the said kiosk was being used by Sh. Neeraj Kumar S/o of Sh. Satinder Bhati. It is however not clear from the available papers in the file whether the current occupants of the said kiosk are the legitimate lease holders or not.

7. During the hearing on 28.08.2017, the complainant stated that neither Sh. Neeraj Kumar nor his father Sh. Satinder Bhati is the authorised lease holder. Sh. Satinder Bhati, who according to him, is a DDA employee, continues to sell goods from near his DMS booth and harasses him besides adversely affecting his business.

8. The representatives of the respondent submitted that they are from the Enforcement Directorate and are responsible for removing any encroachment. Whenever they receive any complaint either from the complainant or any other person, they remove encroachment as per rules. This is a continuous practice. They offered to give the mobile number of the concerned Area Inspector to the complainant who can

inform him in case of any encroachment. As regards harassment, the complainant should report the matter to the police. They further submitted that the said kiosk no. 56 was sealed and continues as such. If any person including Sh. Satinder Bhati and Sh. Neeraj Kumar has encroached unauthorisedly, the same will be removed immediately.

9. The respondents are advised to ensure that the concerned persons as mentioned above do not harass the complainant and adversely affect his livelihood by organising regular vigil of the area. It is brought to the notice of all concerned that Section 92 (a) of the Rights of Persons with Disabilities Act, 2016 provides that,

"***Whoever,—***

(a) intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine." Section 89 of the said Act also provides for ***"punishment for contravention of provisions of the said Act or Rules or regulations made there under which may extend to ten thousand rupees and for any subsequent contravention with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees." Further, as per*** Section 7 (4) of the Act, ***Any police officer who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards any person with disability shall inform the aggrieved person of—(a) his or her right to apply for protection under sub-section (2) and the particulars of the Executive Magistrate having jurisdiction to provide***

assistance among other things to ensure that the person with disability is protected from abuse, violence and exploitation.

10. The complainant is advised to approach the concerned Police Officials in case of any harassment. The concerned Police Officers are advised to ensure that the complainant is not harassed by any person and his rights are not infringed.

11. During the last over 3 years, this Court has taken various steps to redress the grievance of the complainant. The concerned authorities namely, NDMC and the Delhi Police have taken action in accordance with the law and have undertaken to take measures under the relevant provisions of the Act so that the complainant is not harassed. In the light of this and with above advice, the complaint is disposed of.

12. Given under my hand and the seal of the Court this 8th day of September, 2017.

(T.D. Dhariyal)
State Commissioner for Persons with Disabilities
Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

Copy to:

The Chief Commissioner of Persons with Disability w.r.t. case No. 6328/1141/2016 dated 04.08.2017.