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

+ **W.P.(C) 13270/2021**

**PADAM NAGAR BAGH KARE KHAN MANUFACTURES
AND TRADERS ASSOCIATION**

..... Petitioner

Through: Mr. Gagan Gandhi & Mr. Mohit
Kaushik, Advocates

versus

**MINISTRY OF HOUSING AND URBAN
DEVELOPMENT AND ORS**

..... Respondents

Through: Mr. Ajjay Aroraa, Standing Counsel
along with Mr. Kapil Dutta, Mr. Anuj Bhargava &
Mr. Rajat Rajoria, Advocates for NDMC
Mr. Sanjay Katyal, Advocate for R-2

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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25.11.2021

CM APPL.41878/2021(exemptions)

Allowed, subject to all just exceptions.

Application is disposed of.

W.P.(C) 13270/2021 & CM APPL.41877/2021 (Interim stay)

1. Present writ petition has been preferred seeking the following reliefs:-

*“a) Hold the Notification vide S.O. 3173(E) dated 29/06/2018 as
ultra-vires;*

*b) Issue a writ of mandamus and direct the Respondent No. 1 and
Respondent No.2 to allow the users of property to make payment
for the conversion and parking charges in both lump sum and
annual payment mode;*

c) Direct the Respondent No.1 and Respondent No.2 to withdraw the Notification S.O. 3173(E) dated 29.06.2018 ;

d) Direct the Respondent No.3, Respondent No.4 and Respondent No.5 respectively to refund the money collected as conversion and parking charges with interest calculated @ 18% per annum from the date of levy till the actual payment to the payer(s);

e) Direct the Respondent No.3, Respondent No.4 and Respondent No.5 respectively to constitute a separate account for the parking and conversion charges respectively and maintain the expenditure and income statement of the same to be published quarterly at their websites respectively;

f) Direct enquiry against the Respondent No.3, Respondent No.4 and Respondent No.5 respectively for misusing and diverting the public money;

g) Pass any other order(s) and or direction(s) which this Hon'ble Court deems fit and proper, in favor of the Petitioner or Pass such other order or orders and / or direction and / or directions, as this Hon'ble Court would deem fit and proper."

2. We have heard learned counsels appearing on behalf of the parties.
3. Petitioner herein assails the Notification dated 29.06.2018 whereby the earlier Notification dated 22.06.2007 has been modified. Learned counsel appearing on behalf of the Petitioner contends that under the Notification dated 22.06.2007, the premises under mixed use were subject to levy of Annual Mixed Use Charges for the period upto which the premises remained or were likely to remain under mixed use and as per para 5.4 thereof, the owner/allottee/resident/user of the premises had the option to make payment of conversion charges either on Annual basis or pay a lump-sum amount. However, by the impugned Notification the

owner/allottee/resident/user of the premises is liable to pay one-time conversion charges on mixed use/commercial streets instead of Annual Mixed Use Charges. Besides this, the funds collected in the form of conversion and parking charges meant for upgradation of infrastructure etc, are being diverted from the Escrow Account to Respondents No. 3 to 5 for payment of salaries. It is contended that the impugned Notification creates a class within a class and violates Article 14 of the Constitution of India, besides the fact that the manufacturers and traders of Delhi who are members of Petitioner association would be unable to make the one-time payment due to loss in business caused by the impact of Pandemic Covid-19.

4. On a pointed query by the Court whether the Petitioner has approached the concerned authorities and filed a Representation/Objection against the Notification, learned counsel appearing on behalf of the Petitioner candidly submits that no representation has been preferred by the Petitioner.

5. We, therefore, direct the concerned Respondent(s) to treat the present petition as a representation and look into the grievances ventilated by the Petitioner. Decision shall be taken by the Respondent(s), keeping in mind the fact that the earlier Notification dated 22.06.2007 gave an option to the owner/allottee/resident/user of the premises to make a one-time payment of the conversion charges or pay on Annual basis. It shall also be kept in mind that a large number of manufacturers and traders have suffered loss in business due to the impact of the unprecedented pandemic Covid-19 and may not be in a position to offer a one-time lump sum payment.

6. Needless to state that the decision shall be taken in accordance with law and as expeditiously as possible, preferably within a period of three weeks from today.
7. Liberty is granted to the Petitioner to take recourse to remedies available to the Petitioner, in accordance with law, in case it is aggrieved by the decision taken by the concerned Respondent(s).
8. Writ petition along with pending application is disposed of with the aforesaid directions.

CHIEF JUSTICE

JYOTI SINGH, J

NOVEMBER 25, 2021

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