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

+ **W.P.(C) 11025/2020 & CM APPL. 34457/2020**

VINOD KUMAR

.... Petitioner

Through: Mr. Satvik Varma and Mr. Rajeev Kumar
Yadav, Advocates.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS.

....Respondents

Through: Mr. Gaurang Kanth, Standing Counsel, Ms.
Mansi Bajaj, ASC and Mr. Saksham Mishra,
Advocate for R-1.

Mr. Pankaj Sharma, Advocate for R-2 to R-
5.

Mr. C.U. Singh, Sr. Advocate, Mr. Huzefa
Ahmadi, Sr. Advocate and Mr. Siddharth
Bhatnagar, Sr. Advocate with Ms. Malvika
Trivedi, Mr. Sidharth Mohan and Ms.
Abhipriya, Advocates for R-6.

Mr. Sunil Fernandes, Standing Counsel for
BSES alongwith Mr. Shubham Sharma,
Advocate for R-7.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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23.12.2020

The hearing was conducted through video conferencing.

CM APPL. 34458/2020 (Exemption)

- 1 Exemption allowed, subject to all just exceptions.
- 2 The application stands disposed-off.

W.P.(C) 11025/2020 & CM APPL. 34457/2020



3. Issue notice. The learned counsel named above accept notice on behalf of the respondents.
4. At the outset, the learned counsel for the petitioner states that this petition has been preferred not in any adversarial spirit, but only to request that directions be issued for strict adherence to the policy for installation and management of colony gates. The petitioner is a shopkeeper in the Nizamuddin East Market. He submits that he is not seeking that Rahim Khan Marg be opened as a thoroughfare. He only wants the road to be used as per extant laws, in particular the Delhi Municipal Corporation Act, 1957, and 'Policy/Guidelines for Installation of Gates for Security Purpose in Colonies dated 26.06.2007'. The road is maintained by the Public Works Department ('PWD'), GNCTD. It leads to three educational institutions abutting the street as well as the Post Office; school buses ply on this road.
5. Surely, access to these facilities cannot be restricted by installation of colony gates. According to the petitioner, the law does not permit installation of colony gates on PWD Roads. In any case, all sanctioned gates have to be manned and to be regulated as per the Guidelines.
6. Photographs annexed to the petition, show large cement planters kept unauthorizedly in the middle of the road at various places. Evidently this has reduced the width of the road, they are traffic hazards and make the use of the road unnecessarily difficult. Numerous speed-breakers too have been laid across the street, making it a veritable obstacle-course.
7. The case was passed over for the learned Senior Advocate for R-6 and



the learned counsel for Delhi Police to obtain instructions. Having done so, R-6 has without much ado, started removal of the speed breakers. Photographs of the removal exercise, has been shared on the computer screen.

8. Two boom-barriers have been installed by R-6 on the said road. The rationale offered, is that it was so done only as a special measure, because of the current pandemic circumstances when all residents wish to curtail access to the colony of persons people who have no business in the area. Reference is made to a 'No objection' from Delhi Police contained in letter dated 23.12.2005, for installation of 'two drop-gates' and two colony gates.
9. However, the same does not constitute permission to install either the colony gates or the drop-barrier. Such permission can be issued only by the Municipal Corporation. The court is informed that 11 colony gates have been installed against permission of only two. It is alleged that the gates are neither manned nor regulated as per the Guidelines. In any case there is no permission for the drop-barrier from the Corporation or any authority, let alone for the recently installed boom-barriers. The learned Senior Advocate for R-6 submits that an application to the PWD for shifting the boom barriers is pending. He also states that PWD has informed R-6, that no permission is required from the PWD.
10. The petitioner contends that on a PWD road, the Municipal Corporation would have no jurisdiction to grant permission of installation of colony gates nor can any boom barrier or drop-gate/drop-barrier be permitted.



11. There is no permission for putting hindrance in the use of the public carriageway - Rahim Khan Marg, being maintained by the PWD; the installation of boom-barriers and the corresponding cradles upon which the horizontal boom barriers rest, are unauthorized; the laying of speed-breakers on the said road -- by R-6, was also without permission. In the circumstances, the boom barriers will be kept in a vertical position and shall not be used. Additionally, lest the boom-barrier cradles lead to an unfortunate traffic incident, R-6 undertakes to have it removed by this evening. The SHO of the area shall so ensure of the same and file an affidavit before the next date.
12. Photographs supported by an affidavit, of the entire stretch of road shall be filed by all the parties within two weeks, showing that the road is free of speed-breakers, except those as may have been permitted by the authority concerned. All obstructions, planters, etc., shall be removed from the carriageway.
13. Nothing stated in this order shall be deemed to be an adjudication on the merits of applications, as may be preferred or may have already been made by R-6, for installation of colony gates, boom-barriers, drop gates, etc. A decision on such application(s) would not be constrained by the pendency of this petition.
14. List on 08.02.2021.
15. The order be uploaded on the website forthwith.

NAJMI WAZIRI, J

DECEMBER 23, 2020

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