

**UTTAR PRADESH STATE LAW COMMISSION**

**THIRTEENTH - REPORT, 2012**

ON

**"THE UTTAR PRADESH STREET VENDORS (PROTECTION OF  
LIVELIHOOD AND REGULATION OF TRADE) BILL, 2012,"**

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**CHAPTER-I**

**INTRODUCTION**

1.1 Street vending as a profession has been in existence in our country since time immemorial. However the numbers of street vendors have increased manifold in the recent years. Today they have a presence in every urban area from the smallest town to the largest metropolis. According to the national Policy on Street Vendors approximately 2% of the population is dependent on street vending. The total number of street vendors in the country is estimated at around one crore. Urban Street vending is not only a source of employment but provide 'affordable' services to the majority of urban population. In urban places, the percentage of street vendors is constantly on the rise coinciding with the migration of large number of people from rural places in search of better livelihood opportunities to nearby towns and cities. The role played by vendors in the economy as also in the society needs to be given due credit but they are considered as unlawful entities and are subjected to continuous harassment by civic aauthorites and police.

1.2 In recent times with increasing investment in cities and rising values of urban land there is a drive to harass and evict them, in the name of encroachment and traffic. Although there is a National Policy on Street Vendors, and this has provided some relief, still it is rarely implemented by the cities because it lacks legal enforceability. Hence, the National Policy be converted into a Law. Another reason for

needing a law is because the existing law such as, State Municipal Laws, Police Acts and the Indian Penal Code is not recognizing street vendors as a legal entity and some of the provisions are actionable against them.

1.3 Here, we would like to define the street vendors as follows: "**street vendor**" means a person engaged in vending of articles, goods, wares, food items or merchandise or offering services to the general public, in a street, lane, side walk, footpath, pavement, outside the public park or any other public places or private areas or by moving from place to place using cloth, umbrella, plastic sheet, or other material or contraption for safety of self and wares and includes hawker, peddler, squatter and all other synonyms terms which may be local or region-specific; and the words "street vending" with their grammatical variations and cognate expressions, shall be construed accordingly;

1.4 Under the National Street Vendors Policy- 2004 and then 2009 it was the responsibility of the states to give institutional design and legislative framework through legislation as well as to implement the policy. Unfortunately, the powerful urban interests ensure that Bills and policies remain in draft form and even when policy is accepted it is rarely implemented. It has been seven-eight years since we saw the first national policy on Street Vendors but in all urban areas- big and small - street vendors are being harassed and evicted mercilessly. Model Street Vendors are being harassed and evicted mercilessly. Model Street Vendors (Protection of livelihood and regulation of street vending) Bill, 2009 was also prepared by the Government of India, Ministry of Housing & Urban Poverty alleviation, which has recommended to states for enacting legislation falls short of aspirations of the street vendors. Most of the states have not yet enacted the State Legislation in accordance with the Model Bill, 2009. State of Uttar Pradesh is also one of them. The State law can give the policy and the Model Street Vendors Bill, 2009 of Government of India a logical conclusion which has to be implemented at the ground level.

1.5 A couple of landmark judgments by the **Hon'ble Supreme Court** of India have gone a long way in changing the perception Towards Street vending as a whole. Way back in 1989, the **Hon'ble Apex Court** in the **Sodan Singh & other Vs. New Delhi Municipal Committee & others (1989) 4SCC 155, "THE UTTAR PRADESH STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF TRADE) BILL, 2012,"** case, ruled that,

"If properly regulated according to the exigency of the circumstances, the small traders on the side walks can considerably add to the comfort and convenience of the general public, by making available ordinary articles of everyday use for a comparatively lesser price. An ordinary person, not very affluent, while hurrying towards his home after a day's work can pick up these articles without going out of his way to find a regular market. The right to carry on trade or business mentioned in Article 19(1) of the Constitution, on street pavements, if properly regulated cannot be denied on the ground that the streets are meant exclusively for passing or re-passing and no other use."

1.6 In a landmark judgment in 2006, the **Hon'ble Apex Court** in the **'Sudhir Madan & others Vs. Municipal Corporation of Delhi & others (2009) 17SCC 332,** case, ruled that,

"We have also to keep in mind the principle that the right to use the pathway, footpath etc. is that of the citizens. No hawker can claim a right to defeat the rights of other citizens. The hawkers are large in number, but the population of citizens is many times more than that of hawkers and, therefore, the fundamental rights of the citizens cannot be put in jeopardy by permitting hawkers and squatters to block roads, footpaths, public parks, etc., etc. The Authority, which frame a scheme, has to keep this paramount consideration in mind. Consistent with the rights of citizens, if it is possible to provide any space to hawkers, squatters etc., that may be done consistent with the policy to be framed by the concerned Authority. The authority will have to consider on what principles hawking and no hawking zone

have to be carved out. It will also have to consider in which zones no hawking activity can be permitted. It will also have to consider what nature of goods can be sold by hawkers, squatters, etc. so that cleanliness is maintained and at the same time free flow of traffic and movement of pedestrians is not obstructed. ...."

1.7 And subsequently, in October, 2010, in another landmark judgment **the Hon'ble Supreme Court in Gainda Ram and others vs Municipal Corporation of Delhi and others, (2010) 10 SCC 715**, case, has highlighted the need for law and observed that " street hawkers have a fundamental right to carry out their activities on the streets but this right is subject to reasonable restrictions since it clashes with the citizens' right to access and use the roads and has directed the appropriate government to enact a legislation for regulation of fundamental rights of street vendors by June 30<sup>th</sup>, 2011.

1.8 Regarding National Policies on street vendors **Hon'ble Supreme Court in Gainda Ram case (supra)** has observed that " neither the said policy nor the scheme framed by NDMC can be called law, except of course the provisions of Sections 225, 226, 330 and 369 (2) of the NDMC Act. NDMC has not made any bye-law under Section 388 of the NDMC Act so as to regulate the fundamental right of the hawkers to hawk or squat on the streets of Delhi. The schemes which have been framed under the direction of the Court or the National Policy on Urban Street Vendors, 2004 which has been framed by the government can not be said to be framed under the said power to frame bye-law and do not have the status of law or even subordinate legislation".

1.9 Proper regulation is, however, a necessary condition as otherwise the very object of laying out roads- to facilitate traffic- may be defeated. Allowing the right to trade without appropriate control is likely to lead to unhealthy competition and quarrel between traders and travelling public and sometimes amongst the traders themselves resulting in chaos. The right matter is examined in its light it will appear that the principle stated in **Saghir Ahmad vs State of U.P., AIR 1954 SC 728** in connection with transport business applies to the hawkers' case also. The proposition that all public streets and roads in India vest in the State but that the State holds them as trustee on behalf of the public, and the members of the public are entitled as beneficiaries to use them as trustee on behalf of the public, and the members of the public are entitled as beneficiaries to use them as matter of right, and that this right is limited only by the similar rights possessed by every other citizen to use the pathways, and further that the State as trustee is entitled to impose all necessary limitations on the character and extent to the users, should be treated as of universal application.

1.10 So far there is no Central or State legislation on the street vendors. The hawkers' and squatters' or vendors' right to carry on hawking has been recognised as the fundamental right under Article 19 (1) (g). At the same time the right of the commuters to move freely and use the roads without any impediment is also a fundamental right under Article 19(1) (d). These two apparently conflicting rights must be harmonized and regulated by subjecting them to reasonable restrictions only under a law. These two apparently conflicting rights must be harmonised and regulated by subjecting them to reasonable restrictions only under a law. The fundamental right of the hawkers, just because they are poor and unorganised, can not be left in state of limbo nor can it be left to be decided by the varying standards of a scale which changes from time to time.

1.11 Under these circumstances The U.P. State Law Commission is of the view that a state legislation on street vendors be enacted by legislature of State of Uttar Pradesh to enforce the fundamental rights of the street vendors provided under Article 19(1) (g) subject to reasonable restriction under Article 19(6) of the Constitution. However, it is within the domain of the State to make any law imposing reasonable restriction in the interest of the general public. This can be done by an enactment or any other law permissible under Article 19(6) of the Constitution.

1.12 Therefore, The U.P. State Law Commission has decided to take up the matter suo-motu to submit a report with **Model Draft Bill** on the subject titled "**THE UTTAR PRADESH STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF TRADE ) BILL, 2012,**" to the State Government.

1.13 Street trading is an age-old vocation adopted by human beings to earn living. In the olden days the venue of trading and business has always been the public streets but, in the course of time fairs, markets, bazaars and more recently big shopping complexes and fashionable plazas have come up. In spite of this evolution in business and trade patterns the 'street trading' is accepted as one of the legitimate modes of earning livelihood even in the most affluent countries of the world. In England 'street trading' has been regulated by various Acts of parliament. Paras 425 to 448 of **Halsbury's Laws of England, 4th edn., vol. 40** deal with this subject. Paras 427 to 430 pertain to 'street trading' in districts as regulated by the provisions of **Local government (Miscellaneous provisions) Act, 1982**. Paras 431 to 448 relate to 'street trading' in Greater London and in the city of London.

**London Country Council ( General Powers) Act, 1947** and **City of London ( various Powers) Act, 1965** provide for designation of street by the London Borough council in respect of which applications for grant of ' street trading' licences are entertained. { **sodan Singh case ( supra)**}

**1.14** To deal with the various issues related to the street vending various meetings of the Commission were held at its head quarter as well as its Camp office at Allahabad. besides it following meetings/ seminar were also held.

1.15 On 28<sup>th</sup> May, 2011 a meeting of the Commission was held which was also attended by Sri P.k. Srivastava, Additional Municipal Commissioner, Municipal Corporation, Lucknow.

1.16 On 13<sup>th</sup> October, 2011 a meeting of the Commission with office bearers of various Howkers/ Vendors' Associations, Vyapar mandal and officers of the Municipal Corporation and Police particularly the Traffic Police was held which was attended by presidents and other office bearers of various Howkers/ Vendors' Associations, Vyapar mandal and officers of the Muniapi Corporation and Police.

1.17 On 16<sup>th</sup> October, 2011 a Seminar/ Workshop on street vendors was organised by the State Law Commission, which was participated by Hon'ble Mr. Justice V.k. Dixit, Judge of Allahabad High Court, as Chief Guest, Sri G.P. Thareja, senior member of Delhi Higher judicial service (Retd.), who headed the ' Thareja committee', constituted under the directions of the **Hon'ble Supreme Court** vide its order dated 21.12.1989 passed in the **Sodan Singh Vs new Delhi Municipal committee, (1989) 4SCc 155, for** for looking into the matter of hawkers in New Delhi Municipal Council area.

1.18 During various meeting and in the seminar/ workshop various suggestions were made by the guest speakers. Suggestions made by Sri G.P. thareja, are more relevant in the present context, as his suggestions reflect his vast working experience, dealing with the cases of Vendors/ hawkers/ Squatters. Hon'ble Mr. Justice V.K. Dixit, Judge Allahabad High Court, Dr. Surya Kumar Shukla, Additional DGP, (Traffic), Mrs Sadhana Goswami, A.S.P. Traffic Police, Lucknow and others Hon'ble guest speakers including professors and office bearers of various vendors/ hawkers associaton's and Vyapar Mandal have also enlightened on the various problems faced by the street vendors. They also made valuable suggestions to slove the problems of street vendors/ hawkers, general public, administration, vehicular traffic and other related problems thereof. some of the valuable suggestions, relevant to the present context and taken into consideration in the recommendations and drafting the proposed Draft Bill, are as follows:-

- Who is hawker/ vendor/ squatter?
- Haw to identify the hawker/ vendor/ squatter and what should be the criteria to identify them?
- Person whose income is low hould be given preference and vending right should be given to the needy person.
- The person who is hawking/ vending atleast for five years, seven years or ten years should be allowed as vendor/ hawker.
- Every body should not be given the right of hawking/ vending.
- Vendors should be identified by the vending committee like town vending committee/ zonal vending committee.
- Servants of the shopkeepers should not be allowed vending before the shop of the owner.
- The street vendors who employ servants to run their trade and to sit on stalls and takes all the earning by giving a meager salary to the servant, should not be allowed to continue as street vendors.

- One person should not be allowed street vending at different places and in the different names of his family members and relatives.
- Pavements should be raised higher and such pavements of each road in every mohalla should be declared vending zone.
- Vending zone, non-vending zone and restricted vending zone should be identified.
- if any vendors like Chatwalas or others are sitting without any authority/ license they should not be allowed to continue their trade and licenses should not be given to such vendors.
- Hawking/ vending rights should not be permanent. It should be for a limited period i.e. 01 year, 03 years, 05 years, 7 years or 10 years.
- Right to question the allotment order before a body should be there so that genuine hawker/vendor/ squatter be find out. It means redressal mechanism should be evolved.
- For a particular vending area, first, find out the local need of the society.
- Time limit for vending may be fixed. it may be in the morning 7.00 aM to 11.00 AM and in the night 7.00 PM to 12.00 PM.
- Transfer of vending rights should not be conferred on vendor/ hawkers.
- If vendors/ hawkers dies what will be the position of his/her heirs regarding continuance of vending.
- Maximum fine limit may be fixed but lower limit should not be fixed.
- Parking area should also be demarcated in each vending zone.

- Highways and busy roads where heavy traffic is there, should be declared no vending zone as traffic and hawkers are interrelated.
- Night markets may be promoted.
- Natural markets should be developed.
- Insurance scheme, Rainvasera, social security and basic civic amenities should provided to the street vendors/ hawkers.
- By the town planner and development authorities including private builders, some land ie. 1% or 2% of the land, should be left in each proposed area for building or site of built area, as vending zone.

1.19 As street trading is an age old vocation adopted by human beings to earn living. This is prevalent even in countries where there is a complete social security and no compulsion on the citizen to be driven to street trading out of poverty or unemployment. on the other hand abysmal poverty in India warrants outright rejection of the arguments that no body has a right to engage himself in 'street trading'.

1.20 So one street trading is accepted as legitimate trade, business or occupation, it automatically comes under the protection guaranteed under Article 19(1) (g) of the constitution. Public streets are primarily to be used by the public generally as pathways for passing and repassing but there are other ancillary purposes for which the public streets can be used as of right. There is thus no justification to deny the citizens of their right to earn livelihood by using the public streets for the purpose of trade and business.

1.21 In India there are large number of people who are engaged in the business of 'street trading'. There is hardly a household where hawkers for not reach. The housewives wait for a vegetable vendor or a fruit seller who conveniently delivers the daily needs at the door step. There is practically no law regulating street trading in the State of U.P.. The skeletal provision in the U.P. Municipalities Act, 1916 and the U.P. Municipal corporations Act, 1959 can hardly provide any regulatory measures to the enormous and complicated problems of street trading in the urban areas of State of Uttar Pradesh. Virtually under various existing provisions of these Acts, which will be discussed under later chapter, street trading is prohibited.

1.22 **Hon'ble Supreme Court in Bijoe Emmanuel and other v. state of kerala and others, (1986) 3SCC 615** has held that "the law is now well settled that any law which be made under clauses (2) to (6) of Article 19 to regulate the exercise of the right to the freedoms guaranteed by Article 19(1) (a) to (e) and (g) must be 'a law' having statutory force and not a mere executive or departmental instruction."

1.23 In **Kharak Singh v. State of UP Air 1963 SC 1295** the question arose whether a police regulation which was a mere departmental instruction, having no statutory basis could be said to be a law for the purpose of Article 19(2) to (6). The Constitution Bench answered the question in the negative and said:

" They would not therefore be " a law" which the state is entitled to made under the relevant clauses (2) to (6) of Article 19 in order to regulate or curtail fundamental rights guaranteed by the several sub-clauses of Article 19(1), nor would the same be " a procedure established by law " within Article 21-----".

1.24 Hon'ble Supreme court in **Gainda Ram and others V. Municipal Corporation of Delhi and others (2010) 10 SCC 715** has observed on the national Policy on Urban Street Vendors, 2004 which has also referred the master Plan of Delhi, 2021 that " neither the said Policy nor the scheme framed by NDMC can be called law-----."

1.25 a report says that "with nearly 350 million people residing in more than 5000 cities and towns, India is going to be one of the largest urban systems in the world. This will create pressure on the already crumbling urban basic civic amenities. Our cities and towns are grossly deficient in power, drinking water, roads, housing especially to the urban poor, sewage treatment systems, social infrastructure like schools, hospitals, parks, community centers etc. Urban poor and informal sector are the backbone of our society and provide services to make the quality of life in the cities better. However, the society hardly recognizes the contribution of newspaper vendor, sweeper, housemaid, driver, vegetable vendor etc. and therefore it is necessary to have integrated development of townships with inclusive zoning, inclusive housing and inclusive cities."

1.26 Therefore, the State government should accord a new deal to achieve the secured and dignified livelihood and social security rights of the street vendors who form a critical mass of population but, got disenfranchised in the process of rapid urbanization and unequal urban distribution system. The National Policy- 2009 on urban street Vendors underscores the need for a legislative frame work to enable street vendors to pursue an honest living without harassment from any quarter. The Government of India, Ministry of Housing and urban poverty alleviation had drafted a Model Street Vendors (Protection of Livelihood and Regulation of Street Vending) bill, 2009 and circulated to all States/ UTs requesting them to take a cue while legislating on the subject, but there is no progress on State legislation.

1.27 We have been told by the officers of the Municipal Corporation of Lucknow and office bearers of various hawkers/ vendors associations during the aforesaid meetings and seminar that, though, U.P. State government has framed the rules titled "उत्तर प्रदेशीय नगररीय फेरी तथा सड़क पटरियों पर कारबार (विनियमन एवं प्रबंधन) नियमावली, 2007" under clause (xxi) of section 114 and section 451 read with section 453 of The Uttar Pradesh Municipal Corporations Act, 1959 (U.P. Act No. 2 of 1959), yet it is not implemented, so far.

1.28 Without laws to protect street vendors, they are harassed by Municipal and Police personnel who evict them and seize their goods frequently without notice, thus they face major losses when their goods are confiscated by municipal and police officials.

1.29 Therefore, hawking and street vending should be regulated by a law. We are of the opinion that state legislation to regulate the street vending is imminently necessary in public interest.

1.30 As an outcome of the above discussion at various meetings and Seminar / Workshop of the commission and suggestions made therein a draft report with a Model Draft Bill titled "**THE UTTAR PRADESH STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF TRADE) BILL, 2012,**" was prepared By Sri Ishwar Dayal, Full-time member of the commission and it was circulated to all the Members of the Commission and their views were invited thereon. The view so received was finally discussed at a meeting of the Commission held on **February 19, 2012.**

1.31 The Commission is of the opinion that legislature of State should enact a legislation titled "**THE UTTAR PRADESH STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF TRADE) BILL, 2012,**" in terms of the accompanying **Draft Bill Annexure-I**. The Bill is aimed at providing protection of livelihood to urban street vendors, regulating vending trade, and service provided to vendors who live under constant threat of loss of their means of livelihood and feel to convenient of the public.

1.32 The **proposed Bill (Annexure -I)** including other provisions provides that the State Government shall frame a scheme which may provide the form and manner of grant, renewal, suspension or cancelation of a registration certificate, and issue of identity card to street vendors, fees for grant and renewal of a registration certificate and fines for contravention of the term and conditions of registration and other provisions of the Act, procedure for filling appeal and disposal of appeal by the town Vending Dispute Redressal Forum and State level Appellate Authority, Spatial planning by the planning authority for earmarking vending zone for street vendors in the master plan, development plan, zonal plan, layout plan or any other spatial plan, principal for determination of vending zone and holding capacity of vending zone, photo census and survey of existing street vendors, designation of nodal officer, maintenance of proper records and manner of giving notice, eviction, impounding, destructin or seizure of stalls, goods and equipments and relocation of street vendors.

**1.33** The proposed Bill further provides that State Government shall, in each local authority, constitute a Town Vending committee to guide and implement the street vending policy, it will consist the number of member, depending upon the size of local authority, ie. urban Local Body with above 10 lakhs population 30 members, between 3-10 lakhs 20 members, between 1-3 lakhs 15 members and with less than 1 lakhs population 10 members. Municipal commissioner shall be the chairperson of the committee. With above 10 lakhs population there shall be zonal vending committees with composition and membership same as town vending committee. Representation of Members to the vending committee shall be in the following manner:-

**1.34** 40 percent of the members in Zonal Vending Committee/ Town Vending Committee shall be nominated from the zonal level/ town level street vendor's federation. Provided that one third of the members shall be from women street vendors, 30 percent from local authority of town planning, sanitation, police and traffic department, revenue department and urban development authority. 10 percent from the elected members of the urban local body. 10 percent from the elected members of the urban local body. 10 percent from the resident welfare association and community based organization and 10 percent members shall be from NGO's, professional groups like lawyers, doctors etc. and representative of trade and commerce and from scheduled bank and physically challenged persons.

**1.35** The proposed Bill further provides that town vending committee/ zonal vending committee shall perform the functions, namely grant, renew, suspend or cancel registration certificate to street vendors,

issue identity cards to the street vendors, collect fee for registration or renewal of registration of street vendors, determine the manner of collecting fees through banks, counters of municipality or counters of zonal/ town vending committee, fee for registration, usage of parking space for mobile stalls and availing of civic services in consultation with local authority, identify and designate vending zones, timings for vending, maintenance of record, determine maximum holding capacity of each vending zone, indentify and declare vending zones as restriction free vending zones, restricted vending zones and no-vending zones, declare place and timings of vendors market for weekly haats, night and festival bazaars, ensure civic amenities, monitor activities of street vendors, ensure the quality of products and services provided to the public and public health, hygiene and safety standards, determine actions for violating the terms and condition for registration, determine term and condition for providing benefits of insurance, maternity benefits, old age pension and other social security schemes to the street vendors in case of death, illness and disability, guidelines for organizing associations and self help groups of street vendors, conduct training programmes for street vendors to enlighten them with entrepreneurship and technical and business skills, redress grievances and resolve disputes amongst the street vendors. It shall also identify, recognize and regularize the existing natural markets and shall demarcate weekly markets and the criteria for such market. Vending Committee shall also prepare and publish its annual report of its activities, planning, budget and accounts in a prescribed manner.

**1.36** The proposed Bill further provided that State Government shall establish a Town Vending Dispute Redressal Forum for each town vending committee. Any dispute arising out of the implementation of this Act shall be decided by this forum. The State Government shall also establish a State level Appellate Authority where an appeal over the decision of Town Vending dispute Redressal Forum shall lie.

**1.37** In the proposed Bill certain transparency procedures have also been incorporated to ensure actual representation of street vendors in the town vending committee and detail procedures of deciding the holding capacity and the vending/ no-vending zones. Every person who has completed the age of eighteen years shall be eligible for making an application for registration as street vendors to the town vending committee. Provided that a minor who is above the age of fourteen years, shall not be disqualified from assisting in the vending activities. Procedure for registration of street vendors, provisions for suspension, cancelation of registration, penalty for contravention of the provisions of this Act, responsibility of planning authority, civic discipline and public hygiene by street vendors and procedure for eviction and confiscation of goods of street vendors, provisions for promotional majors, research and training for the street vendors and provisions for food vendors to maintain cleanness, hygiene and public health, have been provided.

**1.38** This report has been finally settled, approved and signed by the Chairperson and members of the Commission at its meetings held **March 05, 2012**.

1.39 We wish to express our thanks to Hon'ble Mr. justice V.k. Dixit, Sri G.P. Thareja and other Hon'ble guest speakers and office bearers of various hawkers/ vendors associations for their valuable suggestions at the aforesaid Seminar/ Workshop.

1.40 We further wish to express our appreciation for valuable services and assistance received from Sri S.k. Pandey, Secretary of the Commission.

1.41 We also acknowledge the valuable services and assistance rendered by the other staff and official of the Commission.

## CHAPTER-II

### PROBLEMS FACED BY THE STREET VENDORS, GENERAL PUBLIC AND ADMINISTRATION

**2.1** As stated in the preceding chapter street vendors have fundamental rights under Article 19(1) (g) subject to reasonable restrictions under Article 19(6) of the Constitution, still, street vendors, general public and administration are aggrieved and complain against each other. Hence, we have to see the real bone of contention among them and the problems which they are facing. The major problems faced by street vendors for want of street vending/ hawking and problems faced by the general public and administration due to street vending, are as under:-

#### **2.2 The problems faced by the street vendors-**

- The biggest problem is that they are frequently shifted from one place of their vending area to other place. When they establish their business at a particular place, they are forcibly evicted from there by the orders of the municipal authority or due to construction of road or on arrival of V.VIP's . This hampers their business immensely and is also violative of their right to livelihood as provided under Article 19(1) (g) of the Constitution. By frequent eviction, they lose their customer which causes major loss. Also, they have to incur the cost of setting up their business at some new place which might be difficult for those vendors who are not able to earn a lot.

- Street vendors have to face extortion and bribery. Police and municipal officials and local goons constantly harass the street vendors by charging money from them or taking their goods free of cost. All these are illegal measures which hamper the trade of street vendors by threatening that they will evict them their place claiming it to be an illegal establishment. As no specific place has been allotted to the vendors they constantly live under the fear of eviction from their establishment.
- They have no their permanent organization. They are scattered and unable to raise their voice against the injustice caused to them. There is no forum where they can redress their grievances and put up demands for their welfare.
- Vendors have no specific place to carry on their vending. Due to this, they have to carry on their vending on footpaths and even on roads. Later, they are evicted from such places by declaring it a non-vending zone while vendors are unaware about such vending and no vending zone.
- So far, there is no specific policy implemented for the street vendors by the stte Government and the Municipal authorities, consequently they are harassed by the municipal and police authorities.
- Another major grievance of the vendors are that there is no provision for basic civic amenties in the vending area like electricity, water, disposal of solid waste, public toilets and parking areas.

### **2.3 Problems faced by the general public-**

- People claim that they face major commutation problems due to street vendors. Pedestrians find it difficult to use the footpath as it is precoccupied by the street vendors. Many a times, more than half of footpath are occupied by the vendors which compel the pedestrians to walk on road, it may lead to accidents. Some times even entire road is occupied by the street vendors.
- Street vendors are alleged to cause traffic problems. Though, they are not the only reason for poor traffic conditions, yet when street vendors use side of the road and showcase their goods on the road, traffic flow is hampered.
- Street vendors leave no space for parking the vehicles. They often occupy the available parking space also to lure the customers which in turn causes huge problem regarding the parking of the vehicles.
- Street vendors do not work in hygienic conditions. They often set up their stalls over the drain and do not keep their eatables covered. It may lead to spread the diseases.
- As, location of a street vendors is not fixed, a customer can not rely on his goods.

### **2.4 Problems faced by the administration**

- The Administration faces a major problem of encroachment regularly, they have to waste their resources on removing the encroachment caused by vendors on roads side and streets.

- Majority of the street vendors migrate from villages to cities in search of employment which adds an additional pressure on the cities as they also use various resources for their survival. Vendors constitute a major part of the total population of the city. In absence of any specific law for street vending, it becomes very difficult for the city administration to manage them.
- Major problems faced by the city administration in managing and controlling traffic in most part of city as roads remain over crowded due to street vendors. it also causes traffic commotion, traffic jams, accidents and parking issues in absence of clear demarcation of vending and non-vending zones and parking place.
- It is major concern for the city administration to maintain the hygienic condition of area occupied by the street vendors, as they don't maintain strict standards of cleanliness in their areas. thus, it becomes responsibility of the city administratin to deal with such issues and safeguard public health.
- Where the areas identified by municipal authority for allotment to the street vendors, which have low or negligible business potential, are not found economically viable by allottees, they are reluctant to move those sites.
- If any site is allotted to street vendors they tend to encroach upon larger area which creates problems to the administration.
- A large number of unauthorized hawkers / vendors are operating their trade in the city areas.

- High rate of unemployment and lack of social security and basic civic amenities in the rural areas forced the people to migrate to the urban areas in search of income opportunities and better living which creates an additional burden on city administration for electricity, water and other basic civic amenities.

2.5 Above discussions make it very clear that said problems of street vendors, general public and administration are not one sided but they are linked with each other. Therefore, the solution is not to evict vendors only but they had to be given their due fundamental rights. Street vendors are an important component of the society, therefore, balance is to be made by a law.

2.6 In this regard **Hon'ble Supreme Court in Gaiinda Ram case (supra)** has observed as under:-

"47. On an analysis of the provisions under Article 19(6), it is clear that the provisions under Article 19(6) are broadly in two parts. The first part authorizes that nothing in sub-clause (g) of Article 19(1) shall affect the operation of existing law insofar as it imposes reasonable restrictions, in the interest of general public, on rights conferred by Article 19(1) (g). The second part is that nothing contained in Article 19(1) (g) shall prevent the State from making any law imposing, in the interest of general public, reasonable restrictions on the exercise of rights conferred by Article 19(1) (g). Here we are not concerned with clauses (i) and (ii) of Article 19(6).

48. It is, therefore, clear that reasonable restrictions on the fundamental right under Article 19(1) (g) can be imposed either by existing law or by a law which may be made by a State in the interest of general public. Therefore, nothing short of law can impose reasonable restrictions on a citizen's fundamental right to carry on hawking under Article 19(1) (g) of the Constitution.

2.7 Therefore, we are of the opinion that state law is needed to regulate the street vendors'/ hawkers' fundamental rights to carry on street vending/ hawking. It will not only solve the problems of street vendors, general public and administration, but will balance between the hawkers' right to hawk on the streets and the right of the pedestrians, who were larger in number to use the streets.

## **CHAPTER -III**

### **LEGAL SCENARIO REGARDING STREET VENDING**

3.1 It is settled law that the street vendors/ hawkers/ squatters have a fundamental right to carry on business on the public streets under Article 19(1)(g) of the Constitution, subject to reasonable restriction under Article 19(6). Therefore, it is necessary to refer certain provisions of the Constitution of India and other related laws in force.

#### **3.2 In this regard following provisions of the Constitution of India are more important:-**

"**Article 14-** Equality before law The State shall not deny to any person equality before the law or the equal protection of the law's within the territory of India."

**3.3** Social Justice is one of the sub-divisions of the concept of justice. It is concerned with the distribution of benefits and burdens throughout a society as it results from social institutions: property systems, public organizations, etc. There are three criteria to judge the basis of distribution, namely, rights, deserts or need. These three criteria can be put under two concepts of equality: " formal equality" and " proportional equality". (**M. Nagraj v. union of India, (2006) 8 SCC 212**).

**3.4 Protection of certain rights regarding freedom of speech, etc have been provided under Article 19 of the Constitution. Article 19 (1)(g) runs as follows:**

(g) to practice any profession, or to carry on any occupation, trade or business.

3.5 This freedom means that every citizen has the right to choose his own employment or to take up any trade or calling, subject only to the limits as may be imposed by the State in the interests of the public welfare, and the other grounds mentioned in Cl.(6). (**Sageer Ahemad v. State of U.P., AIR 1954 SC 728**).

3.6 Once it is held that Article 19 is applicable and a fundamental right enumerated therein has been infringed, the only thing which can save the law from constitutional invalidity is if it comes within any of the exception enumerated in clauses (2) to (6) of Article 19.

3.7 In the present context when street vendors/ hawkers/ squatters have fundamental right under Article 19(1)(g), subject to reasonable restrictions under Article 19 (6), it is, therefore necessary to refer clause (6) of Article 19 also, which runs as follows:

(6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to-

- i. the professional or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business, or
- ii. the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

3.8 'The expression 'reasonable restrictions' seeks to strike a balance between the freedom guaranteed by any of the sub-clauses of clause (1) of Article 19 and the social control permitted by any of the clauses (2) to (6). It connotes that the limitation imposed on a person in the enjoyment of a right should not be arbitrary or of an excessive nature beyond what is required in the interests of the public.

3.9 In this regard Directive Principles of State Policy to secure a social order for the promotion of welfare of the people enshrined under Article 38 of the Constitution is also important, of which, clause (2) which is more relevant in the present context, is as under:

**" Article 39(2)** The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations."

3.10 Article 38 enjoins the State to strive to promote the welfare of the people by securing and protecting, as effectively as it may, the social order in which justice- social, economic and political- shall, inform all the institutions of national life striving to minimize inequalities in income and endeavour to eliminate inequalities in status, facilities, opportunities among individuals and groups of people residing in different areas or engaged in different avocations.

**3.11 Another Directive Principles of States Policy under Article 39(a)** of the Constituton provides that " the State shall, in particular, direct its policy towards securing- that the citizen, men and women equally, have the right to an adequate means of livelihood."

3.12 The obligation cast on the State under Article 39(a) of the Constitution is to ensure that all citizens equally have the right to adequate means of livelihood. The directive principles of State Policy have to be reconciled with the rights available to the citizen under pt. III of the Constitution and obligation of the state to one and all and not to a particular group of citizens.

3.13 Right to work, to education and to public assistance in certain cases are provided under **Article 41 of the Constitution**, which runs as follows."

"The State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want."

3.14 Article 37 provides that the Directive Principles, though not enforceable by any court, are never the less fundamental in the governance of the Country. The principles contained in Article 39 (a) and 41 must be regarded as equally fundamental in the understanding and interpretation of the meaning and content of fundamental rights. if there is an obligation upon the State to secure to the citizens an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right to life. The state may not, by affirmative action, be compellable to provide adequate means of livelihood or work to the citizens. But, any person, who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred by Article 21. ( **Olga Tellis and others v. Bombay Municipal Corporation and others, (1985) 3SCC 545**).

**3.15** There are certain provisions of the India Penal Code, 1860 ( Act No. 45 of 1860) and the Police Act, 1861 ( Act No. 5 of 1861), which are the main deterrents to the profession of vending. They are as follows:

**3.15.1 Section 283 of the Indian Penal Code-** danger or obstruction in public way or line of navigatin.-

Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundreded rupees.

**3.15.2 Section 431 of the Indian Penal Code-** Mishief by injury to public road, bridge, river or channel.-

Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for traveling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine or with both.

**3.15.3 Section -34 of the Police Act-** Punishment for certain offences on roads, etc.- Powers of police- officers. Any person who, on any road or in any open place or street or thoroughfare within the limits of any town to which this section shall be specially extended by the State Government, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger of damage of the residents or passengers shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment with or without hard labour not exceeding eight days; and it shall be lawful for any plice- officer to take into custody, without a warrant,

any person who, within his view, commits any of such offences, namely:-

**First- Slaughtering cattle, furious riding, etc.-** Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle;

**Second- Cruelty to animal.-** Any person who wantonly or cruelly beats, abuses or tortures any animal;

**Third - Obstructing passengers.-** Any person who deeps any cattle or conveyance of any kind standing longer, than is required, for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public:

**Fourth - Exposing good for sale.-** any person who exposes any goods for sale;

**Fifth- Throwing dirt into street.-** Any person who throws or lays down any dirt, filth, rubbish or any stones or building materials, or who construts any cowshed, stable or the like, or who causes any offensive matter to run from any house, factory, dung-heap or the like;

**Sixth- being found drunk or riotous.-** Any person who is found drunk or riotous or who is incapable of taking care of himself;

**Seventh- Indecent exposure of person.-** Any person who willfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir, not being a place set aprt for the purpose;

**Eighth- Neglect to protect dangerous places.-** Any person who neglects to fence in or duly to protect any well, tank or other dangerous place or structure.

3.16 Above offences under eight different headings, offences under headings **third, fourth and fifth** are relevant in the present context.

**3.17 The State of Uttar Pradesh has made the following amendments under section 34 of the Police Act vide U.P. Act no. 32 of 1952.**

#### **Uttar Pradesh Amendments**

- i. The existing section 34 shall be re-numbered, as section 34(1).
- ii. In sub-section (1) as so re-numbered, word " visitors " shall be inserted between the words " residents " and " or passengers ", and for the words " section " the word " sub-section " shall be substituted.
- iii. After sub-section (1) as so re-numbered the following shall be added as new sub-sections (2) and (3):-

(2) The State Government may, by notification in the official Gazette, extend to any rural area, specified in the notification the provisions of sub-section (1) and thereupon its provisions shall apply to such area as if it were a town to which the said sub-section (1) and thereupon its provisions shall apply to such area as if it were a town to which the said sub-section (1) and thereupon its provisions shall apply to such area as if it were a town to which the said sub-section had been specially extended.

(3) The extension under sub-section (2) shall be for a specified period and in respect of all or any of the offences as may be specified.

**3.18** These provisions create the contradiction between a legal ' licensed' vendor and ' illegal' obstruction or causing nuisance resulting in physical eviction of even licensed vendors.

3.19 Therefore, we are of the opinion that aforesaid provisions of the Indian Penal Code and Police Act and rules/ regulations made thereunder require amendment to make it more friendly towards street vending.

3.20 Besides Indian penal code and Police Act there are certain provisions of **U.P. Municipalities Act 1916 (U.P. Act No. of 1916) and U.P. Municipal Corporations Act, 1959 (U.P. Act. No. 1959)** are also deterrents to the profession of vending. They are as follows:

#### 3.20.1 **U.P. Municipalities Act 1916**

##### **220. Use of public streets by vendors and other persons.-**

notwithstanding any right or privilege ( previously) acquired, accrued, or enjoyed in a municipal area for which bye-laws under sub-head (b) of heading E of Section 298 have been made and are in force, no itinerant, vendor, or any other person, shall be entitled to use or occupy any public street or place for the sale of articles or for the exercise of any calling or for the setting up of any booth or stall without the permission of the Municipality given in accordance with such bye-law.

**261. Displacing pavements, etc,- (1)** Whoever displaces, takes up or makes an alteration in, or otherwise interferes with, the pavement, gutter, flags, or other materials of a public street or the fences, walls or posts thereof, or a municipal lamp, lamp post bracket, direction post, stand post, hydrant or other such municipal property therein, without the written consent of the Municipality, or other lawful authority, and whoever extinguishes a municipal light shall be liable on conviction to a fine which may extend to one thousand rupees.

**265. Obstruction of street.- (1)** Whoever without the written permission of the Municipality-

- (c) exposes any article for sale, whether upon a stall or booth or in any other manner, so as to causes obstruction in any street; or
- (d) deposite or suffers to be deposited, any building materials, box, bale, package, or merchandise in any street; or
- (e) erets or sets up any fence, rail, post, stll or any scaffolding or any other such fixture in any street; or
- (f) in any manner sillfully obstructs or causes obstruction of the free passage of any street;

shall be liable upon conviction to a fine which may extend to five hundred rupees and in the case of a continuing breach to a further fine which may extend to ten rupees for every day after the day of first conviction during which the offender is proved to have persisted in the commission of the offence.

- (2) The Municipality shall have power to remove any obstruction referred to in sub-section (1), and the expense of such removal shall be recoverable from the offender in the manner provided by Chapter VI.
- (3) The power exercisable by a Municipality under sub-section (2) to remove obstruction from streets shall also be exercisable for the removal by the Municipality of obstructions from any open space. Whether vested in the Municipality or not, which is not private property.
- (4) Nothing contained in this section shall apply to any obstruction of a street permitted by the Municipality under any section of this Act or any rule or bye-law made or licence granted thereunder.

### 3.20.2 U.P. Municipal Corporation Act, 1959

**296. Municipal Commissioner may, without notice, remove anything erected, deposited or hawked or exposed for sale in contravention of Act.-**

- (a) any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or a temporary nature or any fixture which shall be erected, or set up in or upon or over any street or upon or over any open channel, drain, well or tank contrary to the provisions of this Act after the appointed day;
- (b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached or suspended in, upon or to any place in contravention of this Act;

(c) any article whatsoever hawked or exposed for sale in a public place or in any public street in contravention of the provisions of this Act and any vehicle, package, box or any other thing in or on which such article is placed.

3.21 Therefore, we are of the opinion that the State Government should also remove the restrictive provisions in the Municipal Acts to made street vendors inclusive in the city pan/city scape.

**3.22 We would also like to mention here certain provisions regarding street trading which are prevailing in England.\***

**3.23** In England 'street trading' has been regulated by various Acts of parliament. **Paras 425 to 448 of Halsbury's laws of England, Fourth edition, volume 40** deal with this subject. **Paras 427 to 30** pertain to 'street trading' in districts as regulated by the provisions of **Local Government (Miscellaneous Provisions) Act, 1982**. Paras 427 and 428 are reproduced as under:

427-- Adoption of street trading code and designation of streets. A district council may resolve that the street trading code is to apply to its district as from a specified day. Where it has done so, it may by resolution designate any street in its district as a 'prohibited street' in which street trading is prohibited, a 'licence street' in which street trading is prohibited without a licence granted by the district council, or a 'consent street' in which street trading is prohibited without its consent.

\* source paras 29 and 30 of sodan Singh case, (1989) 4SCC 155.

428. --Street trading licences. Application for the grant or renewal of a street trading licence under the street trading code may be made by any person aged seventeen or over in writing to the district council. The council is under a duty to grant the application unless it considers that it ought to be refused on one or more of the following grounds:

- (1) that there is not enough space for the applicant to trade without causing undue interference or inconvenience to street users;
- (2) that there are already enough traders trading in the street from shops or otherwise in the particular goods;
- (3) that the applicant desires to trade on fewer than the minimum number of days resolved on by the council;
- (4) that by reason of some conviction or otherwise he is unsuitable'
- (5) that he has been licensed by the council but has persistently refused or neglected to pay its fees or charges;
- (6) that he has been granted a street trading consent by the council but has refused or neglected to pay its fees;
- (7) that he has without reasonable excuse failed to avail himself to a reasonable extent of a previous licence;

3.24 The licence specifies the street in which, days on which and times between which, and describes the articles in which, the licence holder is permitted to trade, and may contain such subsidiary terms as the council thinks reasonable. Unless previously revoked or surrendered, it remains valid for twelve months or such period as is specified in it, although if the council resolves that the street be designated a prohibited street the licence ceases to be valid when the resolution takes effect. The council may at any time revoke a licence on grounds similar to heads (1), (4), (5) and (7) above, and the licence holder may at any time surrender his licence to the council.

3.25 On receiving an application for the grant or renewal of a licence, the council must within a reasonable time either grant the licence as applied for, or serve on the applicant a notice specifying, with its grounds, its proposal to refuse the application, to grant a licence on different principal terms, to grant a licence limited to a particular place in a street, to vary the principal terms or to revoke a licence, and stating that within seven days of receiving the notice the applicant may by written notice require the council to give him the opportunity of making representations. In this case the council may not determine the matter until either the applicant has made representations, or the time for doing so has elapsed, or the applicant has failed to make the representations which he required the council to allow him to make.

3.26 A person aggrieved by certain refusals or decisions of a council may appeal to a magistrates' court, and appeal from the magistrates' decision lies to the crown court. The council must give effect to the court's decision.

3.27 If a licence holder applies for the renewal of a licence before it expires, the old licence remains valid until a new licence is granted or during the time for appealing or whilst an appeal is pending, and where a council decides to vary the principal terms of a licence or to revoke it, the variation or revocation does not take effect during the time for appealing or whilst an appeal is pending.

3.28 a licence holder may employ assistance without any further licence being required.

**Paras 431 to 448** relate to 'street trading' in Greater London and in the city of London. **London Country Council ( General Powers) Act, 1947** and **City of London ( Various Powers) Act, 1965** provide for

designation of streets by the London Borough Council in respect of which applications for grant of 'street trading' licences are entertained. There are provisions for the registration of street traders. The procedure, for grant of Annual licences and the grounds on which such licences may be refused, has been laid-down. There is a complete code, in the shape of various statutes, which regulates the business of 'street trading' in England. Trading in the streets of London from a stationary position is a common sight. Even in the famous Oxford street which is always over-crowded, there are kiosks, receptacles and stalls at every street- junction from where fruits, confectionary, soft drinks, souvenirs, newspapers and various other articles are sold. 'Street trading' is thus one of the traditionally recognised business or trade in England. This is so in spite of the fact that there is a complete social security in that country and as such no compulsion on the citizens to be driven to street trading out of poverty or unemployment. On the other hand abysmal poverty in India warrants outright rejection of the argument that nobody has a right to engage himself in 'street trading'. "Justice, social, economic and political" and "citizens, men and women equally, have the right to an adequate means to livelihood" which the Constitution of India promises is still a distinct dream. This court, in various judgments, has reminded the government of its constitutional obligations to ameliorate the lot of the poor in India. Nothing much has been achieved. An alarming percentage of population in India is still living below poverty- line. There are millions of registered unemployed. The government, in spite of constitutional mandate is unable to provide them with employment. But when, by gathering meager resources, they try to employ themselves as hawkers or street- traders, they cannot be stopped on the pretext that they have no right, rather the Government should render all help to rehabilitate them.

"Street trading" is thus one of the traditionally recognize business or trade in England. This is so in spite of the fact that there is a complete social security in that Country and as such no compulsion on the citizen to be driven to street trading out of poverty or unemployment.

## CHAPTER -IV

### LANDMARK JUDGMENTS

**4.1** There are various landmark judgments of the Hon'ble Supreme Court and High Courts, related to the cause of street vendors/ hawkers/ squatters. Therefore, it is necessary to refer some of the important decisions.

#### **4.2 OLGA TELLIS V. BOMBAY MUNICIPAL CORPORATION (1985) 3 SCC 545**

**4.2.1** The petitioners of this case are lacs of persons who live on pavements and in slums in the city of Bombay. They constitute nearly half the population of the city. The first group of petitions relates to pavement dwellers while the second group relates to both pavement and basti or slum dwellers. Those who have made pavements their homes exist in the midst of filth and squalor, which has to be seen to be believed. rabid dogs in search of stinking meat and cats in search of hungry rats keep them company. They cook and sleep where they ease, for no conveniences are available to them. Their daughters, come of age, bathe under the nosy gaze of passers-by, unmindful of the feminine sense of bashfulness. The cooking and washing over, women pick lice from each other;s hair. The boys beg menfolk. Without occupation, snatch chains with the connivance of the defenders of law and order; when caught, if at all, they say: "who doesn't commit crimes in this city?". it is these men and women who have come to the Apex Court to ask for a judgment that they can not be evicted from their squalid shelters without being offered alternative accommodation. They rely for their rights on Article 21 and Article 19 (1) (e) of the constitution, as they were forcibly evicted without prior notice.

4.2.2 The Supreme Court has addressed the issue of forcible evictions besides addressing the main issue of whether the right to livelihood could be considered a part of the right to life under Article 21. The court held that the discretion conferred on the Commissioner to serve or not to serve notice to encroachers should be exercised reasonably so as to comply with the constitutional mandate that the procedure accompanying the performance of a public act must be fair and reasonable. The court has added that while vesting in the Commissioner the power to act without notice, the legislature intended that the power is used sparingly and in cases of urgency, which brook no delay.

4.2.3 Though this judgment is not directly relevant as it actually deals with the slum dwellers, the observations made by the court regarding the forcible eviction, right to livelihood, etc. would have definite impact on the hawkers and vendors as well. The court held that eviction would lead to deprivation of livelihood and thus deprivation of life. It went on to say further that no person has the right to encroach on footpaths, pavements or any other place earmarked for a public purpose. Thus it says that forcible eviction is not unreasonable, but that it must be according to procedure established by the law. It says, "procedure prescribed by the law for depriving a person of his right to life must conform to the norms of justice and fair play". Thus the importance of this judgment lies in the fact that it recognizes that eviction affects the right of life and livelihood of poor people and thus the procedure followed such as a notice has to be necessarily served unless there are extreme circumstances.

**4.3 In the M.A. Pal MOHAMMAD V.R.K. SDARANAGAM AIR 985 Mad 23.** The writ petitions were filed by merchants who have their shops in Netaji Subash Chandra Bose Road, Rattan Bazaar Road and Ranganthan Street in Madras, to remove the obstructions and encroachments made by unauthorised hawkers in those roads. The Hon'ble single Judge held that, by permitting hawkers to carry on trade on the pavements of these roads, the Commissioner of Corporation " has permitted an unauthorized obstruction or encroachment of public streets within the meaning of the Act, and consequently, they are bound to act according to law to remove the encroachment." To implement this directive, respondents were granted 18 months time to make alternative arrangements, even though the hawkers can not insist on alternative sites of their choice to be allotted. Further, the first respondent was also directed not to permit any more persons to encroach on these road. Against this judgment these appeals were preferred before the Division Bench.

The Hon'ble madras High Court has held that:

"30. Hawker trade: It is claimed by shop-owners that his trade is a public nuisance. Hawker trade, so long as it is regulated in a proper manner by concerned public authorities, could never be a public nuisance, Rather, general public by and large, are not only attracted by this type of trade, but look forward to it for more than one reason. Shorn of mounting overheads which assume alarming proportions when goods are sold in sophisticated shops, the same type of goods are sold for reasonable prices with less percentage of profit. When traders and manufactures look to hawker trade to dispose of their accumulated stocks, which they can not sell, because either the design is not in vogue or the demand for such type of goods no longer exists, or due to rejection of goods by foreign buyers they could not be exported but still of goods by foreign buyers they could not be exported but still of good quality etc. Furthermore, when vegetables, fruits, flowers are required, general public invariably look forward to a hawker rather than go in for

such stuff in shops, which are unreasonably expensive. The economic conditions of people is such, that they look forward to hawkers, who along could sell for lesser price, the type of goods carrying a quality which could suffice their needs and aspirations. Quite often the shop owner, before whose shop the hawker is trading depends on him for clearance of his accumulated stock, for a small margin he may earn. Even a shop owner who complains about the existence of hawkers, as he returns home buys his other household requirements from these hawkers. In many leading cities in the world on certain days in a week, the vehicular traffic in the earmarked street is prohibited, and hawkers congregate and public in large numbers gather to buy their requirements. Hence it is not as if this type of trade is found only in India. It could never be characterized as an illegal or unethical trade. Mainly because public authorities have failed to regulate their locations, it has resulted in a grievance being made by shop- owners, as if it is a trade that should be excluded. If regulatory measures are introduced, bearing in mind the requirements of the public of free access, public hygiene, public safety and the like, they can also prosper and the general public thereby benefited. If specific plots are allotted and they are confined to those portions, there could be no conceivable objection for such a lawful trade to be carried out, particularly when it would provide an honest livelihood for those who have meager capital but having a keen desire to carry on a trade. On regulatory measures introduced, it could never be a public nuisance."

#### **4.4 BOMBAY HAWKERS UNION V. BOMBAY MUNICIPAL CORPORATION (1985) 3 SCC 528.**

In this case certain provisions of the Bombay Municipal Corporation Act, 1888 was challenged on the ground that it interfered their right of hawking. Hon'ble Supreme Court has held that "the impugned provisions of the Bombay Municipal Corporation Act are in the nature

of reasonable restrictions, in the interests of the general public, on the exercise of the right of hawkers to carry on their trade or business. No one has any right to do his or her trade or business so as to cause nuisance, annoyance or inconvenience to the other members of the public. Public streets are meant for the use of the general public and can not be used to facilitate the carrying on of private trade or business."

4.5 Hawking on the streets of Delhi, whose municipal limits have expanded over the years, has been the subject matter of several proceedings in the Apex Court. Initially in the early sixties, this problem surfaced when Apex Court, hearing an appeal from a decision dated 4th August, 1966 of the Punjab High Court, Circuit Bench at Delhi, dealt with his question in some detail in the case of **Pyare Lal v. New Delhi Municipal committee and Anr.** AIR 1968 SC 133. In **Pyare Lal** case, the sale of cooked food on public streets which was creating the problems of unhygienic conditions came up before the Hon'ble Supreme Court in the context of a resolution of the New Delhi Municipal Committee stopping such sale. A three- Judge Bench of the Apex Court held that no person carrying on the aforesaid business of selling cooked food has any fundamental right to carry on street vending particularly in a manner which creates unsanitary and unhygienic conditions in the neighborhood.

4.6 However, the controversy did not rest there, nor did the problem of hawking come to an end in view of **Pyari Lal Judgment**. Several cases were filed thereafter in different courts and ultimately the leading decision was rendered in **Sodan Singh V. New Delhi Municipal Committee, (1989) 4SCC 155** by a Constitution Bench of the **Hon'ble Apex Court**.

4.7 In **Sodan Singh case** the petitioners, as hawkers, were carrying on business by squatting on the pavements of Delhi and new Delhi and those squatters alleged that they were allowed by the Municipality to carry on such business on payment of charges described as Tehbazari. As the Municipal Authority subsequently refused to permit them to continue their business, that action of the municipality according to those petitioners, interfered with their fundamental right to carry on business under Articles 19(1)(g) and 21 of the Constitution of India. The correctness of the decision in **Pyare Lal case** was also doubted. As such the matter was placed before the Constitution Bench.

4.8 In **Sodan Singh case** there was a paradigm shift by the Apex Court on the interpretation of fundamental right of a hawker or a squatter under Article 19(1) (f) to carry on business. Various judgments of the Apex Court were considered and in paragraph 18 ( at page 169 of SCC) Hon'ble Justice Sharma ( as His Lordship then was) delivering the majority judgment expressly held by referring to **Pyare Lal case** that, " we do not agree with these observations." However, His Lordship was quick to add that in the facts considered in **Pyare Lal case** the decision was correct. Thus, the decision in **Pyare Lal case** was distinguished and confined to the facts of that case.

4.9 However, Hon'ble Apex Court in **Sodan Singh case** took a very broad view of a citizens right under Article 19(1) (g), following its decisions in **Fertilizer Corporation Kamgar union (Regd.) sindri and ors. V. union of India and Ors. (1981) 1 SCC 568, K. Rajendran and Ors. V. State of Tamil Nadu and Ors. (1982) 2 SCC 273, Bombay Hawkers ' union and Ors. V. Bombay Municipal Corporation and Ors. (1985) 3 SCC 528**, and in the case of **Olga Tellis and Ors.** and came to the conclusion that the hawkers and squatters have a fundamental right to carry on business on the public streets, but the same should be regulated.

4.10 It was further held that the right of a hawker to transact business, while going from place to place, is recognised in India for a long period. Of course, such right is subject to regulations since public street demand its use by the public and the streets are not meant to facilitate some citizens to carry on any private business. However, such right of hawking for carrying on business on the streets cannot be denied if they are properly regulated. The said right is subject to reasonable restrictions under clause (6) of Article 19. Relying on the ratio in **Saghir Ahmad v. State of U.P., AIR SC 728** held that streets in India are vested in the municipality and they have to be used by the municipalities as trustees.

**4.11 In this regard para 26 of Sodan singh case (supra), SCC P. 173 runs as follows:**

"26. We as a court in a welfare State do realize the hardship to which many of the petitioners may be exposed if they are prevented from carrying on the business. The only solution for this is the adoption of the policy of full employment, which even according to leading economists like Keynes will alleviate the problems of the unemployed to some extent. But as students of economics we also realize that every human activity has the 'optimum point' beyond which it becomes wholly unproductive. It is for the government to take reasonable steps to prevent movement of people from rural areas to urban areas. That can be done by the development of urban centres in rural areas removed from each other at least by one hundred miles. This is more a matter of executive policy than for judicial fiat. We hope and trust that in administering the laws in force the authorities will keep in view humane considerations....."

**4.12 In Sodan Singh case Hon'ble Justice Kuldeep Singh** in a concurring but a different opinion, interpreted the right under Article 19(1) (g) as comprehensive as possible to include all the avenues and modes through which a man earns his livelihood excepting of course gambling and trafficking in women. His Lordship held:

"28.-----In a nutshell the gurarantee takes into its fold any activity carried on by a citizen of India to earn his living. The activity must of course be legitimate and not anti-social like gambling, trafficking in women and the like."

**4.13 His Lodship further observed as under:**

" 29. Street trading is an age-lod vocation adopted by human beings to earn living. In the olden days the venue of trading and business has always been the public streets but, in the course of time fairs, markets, bazaars and more recently big shopping complezes and fashionable plazas have come up. In spite of this evolution in business and trade patterns the 'street trading' is accepted as one of the legitimate modes of earning livelihood even in the most affluent countries of the world."

**4.14 Hon'ble Supreme Court in Gainda Ram and others v. Municipal Corporation Delhi and others, (2010) 10 SCc 715** has observed:

" 11. Learned Kuldeep Singh, J. in his concurring Judgment made a very pertinent observation after comparing the position of street trading in India with that prevailing in other countries and noted that even in England where there is complete social security and the citizens are not driven to the streets to make out a living out of poverty and sheer unemployment, street- trading is recognized. Considering that an alarming percentage of population in our country lives below the poverty line,

the learned judge held that when the citizens by gathering **meager** resources try to employ themselves as hawkers and street traders, they can not be subjected to a deprivation on the pretext that they have no right. The learned Judge deplored that despite repeated suggestions by this Court, the government has not yet framed regulations for regulating citizen's right to carry on hawking business on the streets."

**4.15 Hon'ble Apex Court in Gaiinda Ram case further observed as under:**

"48. It is, therefore, clear that reasonable restrictions on the fundamental right under Article 19(1)(g) can be imposed either by existing law or by a law which may be made by a State in the interest of general public----- . Therefore, nothing short of law can impose reasonable restrictions on a citizen's fundamental right to carry on hawking under Article 19(1)(g) of the constitution.

68. Certain broad facts cannot be lost sight of. whatever power this Court may have had, it possibly cannot, in the absence of a proper statutory framework, control the ever increasing population of this country. Similarly this Court cannot control the influx of people to different metro cities and towns in search of livelihood in the background of the huge unemployment problem in this contry. While there is a burning unemployment on one hand, on the other hand there is a section of our people, that, having regard to its ever increasing wealth and financial strength, is buying any number of cars, scooters and three wheelers. No restriction has apparently been imposed by any law on such purchase of cars, three wheelers, scooters and cycles. There is very little scope for expanding the narrowing road spaces in the metropolitan cities and towns in India. Therefore, the problem is acute. On the one hand there is an exodus of fleeing.

Population to metro cities and towns in search of employment and on the other hand with the ever increasing population of cars and other vehicles in the same cities, the roads are choked to the brim posing great hazards to the interest of general public. In the midst of such near chaos the hawkers want to sell their goods to make a living. Most of the hawkers are very poor, a few of them may have a marginally better financial position. But by and large they constitute an unorganized poor sector in our society. Therefore, structured regulation and legislation is urgently necessary to control and regulate fundamental right of hawking of these vendors and hawkers.

70. This Court, therefore, disposes of this writ petition and all the IAs filed with direction that the problem of hawking and street vending may be regulated by the present schemes framed by UDMC and MCD up to 30<sup>th</sup> June, 2011. Within that time, the appropriate Government is to legislate and bring out the law to regulate hawkers' and vendors' fundamental right. Till such time the grievances of the hawkers/ vendors may be redressed by the internal dispute redressal mechanisms provided in the schemes.

79. The hawkers' and squatters' or vendors' right to carry on hawking has been recognized as fundamental right under Article 19(1)(g). At the same time the right of the commuters to move freely and use the roads without any impediment is also a fundamental right under Article 19(1)(d). These two apparently conflicting rights must be harmonized and regulated by subjecting them to reasonable restrictions only under a law. The question is, therefore, vitally important to a very large section of people, mostly ordinary men and women. Such an issue cannot be left to be decided by schemes and which are monitored by this Court from time to time.

81. The fundamental right of the hawkers, just because they are poor and unorganized, cannot be left in a state of limbo nor can it be left to be decided by the varying standards of a scheme which changes from time to time under orders of this Court.-----"

4.16 Therefore, State legislation on the subject is necessary. The **Hon'ble Supreme Court in Gaiinda Ram Case (supra)** has highlighted the need for law and has directed the appropriate government to enact legislation for regulation of fundamental rights of street vendors by Jun 30, 2011. So far no such legislation has been enacted either by Parliament or legislature of State.

4.17 The legal status of hawkers and vendors needs to be changed is evident. However, what needs to be done to achieve this change is a moot point. There seems to be no well defined legal strategy to achieve this.

**CHAPTER- V****NATIONAL POLICY FOR URBAN STREET VENDORS, 2004**

**5.1** The origin of the National Policy on Street Vendors can be traced to a taskforce setup by the Government of India in August, 2001. This followed a survey by national Association of Street Vendors of India (NASVI), which presented its finding to the Union urban Development Ministry. A smaller drafting committee consisting of the members of NASVI, Self Employed womens' Associations (SEWA), Union government and State Government officials was also formed to work on the draft for a national policy on street vendors. The drafting committee aimed to keep the content of the policy consistent with the Supreme Court's landmark decisions on street vending related matters. The policy was finalized in 2004.

**5.2 Salient features of the National Policy, 2004 on Street Vendors****1. Introduction**

Street vending as a profession has been in existence in India Since time immemorial. However, their number has increased manifold in the recent years.

According to one study Mumbai has the largest number of street vendors numbering around 250,000, while Delhi has around 200,000. Calcutta has more than 150, 000 street vendors and Ahmedabad has around 100,000. Women constitute a large number of Street vendors in almost every city. Some studies estimate that street vendors constitute approximately 2% of the population of a metropolis. The total numbers of street vendors in the country is estimated at around 1 crore. Urban vending is not only a source of employment but provides 'affordable' services to the majority of urban population. The role played by the hawkers in the economy as also in the society needs to be given due credit

but they are considered as unlawful entities and are subjected to continuous harassment by Police and civic authorities. This is reported to be continuing even after the ruling of the supreme Court that " if properly regulated according to the exigency of the circumstances, the small traders on the side walks can considerably add to the comfort and convenience of the general public, by making available ordinary articles of everyday use for a comparatively lesser price. An ordinary person, not very affluent, while hurrying towards his home after a day's work can pick up these articles without going out of his way to find a regular market. The right to carry on trade or business mentioned in Article 19(1) g of the Constitution, on street pavements, if properly regulated cannot be denied on the ground that the streets are meant exclusively for passing or repassing and no other use."

Further Clauses **(a) and (b) of Articles 39** of the Constitution clearly mention that the State shall, in particular, direct its policy towards securing-

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood.
- (b) that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good.

Street vendors provide valuable services to the urban population while trying to earn a livelihood and it is the duty of the State to protect the right of this segment of population to earn their livelihood. This policy aims to ensure that this important section of the urban population finds recognition for its contribution to society, and is conceived of as a major initiative for urban poverty alleviation.

## 2. Definition

A street vendor is broadly defined as a person who offers goods or services for sale to the public without having a permanent built up structure but with a temporary static structure or mobile stall ( or headload). Street vendors may be stationary by occupying space on the pavements or other public/ private areas, or may be mobile in the sense that they move from place to place carrying their wares on push carts or in cycles or baskets on their heads, or may sell their wares in moving bus etc. In this policy document, the term urban vendor is inclusive of both traders and service providers, stationary as well as mobile vendors and incorporates all other local/ region specific terms used to describe them, such as, hawker, pheriwalla, rehri-partri walla, footpath ducandars, sidewalk traders, etc.

## 3. Overarching Objectives

The overarching objective to be achieved through this policy is to:

**Provide and promote a supportive environment for earning livelihoods to the Street vendors, as well as ensure absence of congestion and maintenance of hygiene in public spaces and streets/**

### 3.1 Specific Objective

The basic objectives of the policy are:

- **Legal:** To give vendors legal status by amending, enacting, repealing and implementing appropriate laws and providing legitimate hawking zones in urban development/ zoning plans.
- **Facilities:** To provide facilities for appropriate use of identified space including the creation of hawking zones in the urban development/ zoning plans.

- **Regulation:** To eschew imposing numerical limits on access to public spaces by discretionary licenses and instead moving to nominal fee- based regulation of access, where market forces like price, quality and demand will determine the number of vendors that can be sustained. Such a demand cannot be unlimited.
- **Role in distribution:** To make Street Vendors a special component of the urban development/ zoning plans by treating them as an integral and legitimate part of the urban distribution system.
- **Self Compliance:** To promote self- compliance amongst Street vendors.
- **Organization :** To promote, if necessary, organizations of Street vendors e.g. Unions/ Co-operatives/ Associations and other forms of organization to facilitate their empowerment.
- **Participation:** To set up participatory mechanisms with representation by urban vendors' organizations, ( Unions/ Co-operatives/ Associations ), Voluntary organizations, local authorities, the police, Residents Welfare Association (RWAs) and others for orderly conduct of urban vending activities.
- **Rehabilitation of child vendors:** To take measures for promoting a better future for child vendors by making appropriate interventions for their rehabilitation and schooling.
- **Social Security & financial Service:** To facilitate/ promote social security( pension, insurance, etc.,) and access to credit for Street vendors through promotion of SHGs/ co operatives/ Federations/ Micro Finance Institutions ( MFIs) etc.

## **4. Elements of the Policy**

### **4.1 Planning Norms**

Following the Supreme Court orders, some cities drafted guidelines for regulating urban vending activities. However, the provisions made so far do not generally recognize the fact that demand for their wares/ services is highly specific and varies as to location and time, manifesting as a natural propensity of Street vendors to locate in various places at particular times. On the contrary, the present urban planning norms completely disregard the formation of such natural markets. They also do not have implementation systems in place. Planning norms should be supportive of such natural markets.

#### **4.1.1 Spatial Planning norms- demarcation of vending zones**

The demarcation of hawking zones should be city/ town specific. To make the plans conducive and adequate for the hawkers of the respective city/ town, the following should be adhered to:

- It should take into account the natural propensity of the Street vendors to locate in certain places at certain times in response to patterns of demand for their goods. services.
- City authorities should provide sufficient spaces, designated as 'vendors markets' in layout plans at locations of such natural markets, for the numbers of vendors ( static and mobile) which can cater to demand for their wares/ services. If aspirants to such location exceed the number of spaces available, excess may be regulated by fees or lottery and not discretionary licenses. In any case market forces relating to price, quality and demand will automatically curtail the number of vendors to sustainable levels.

- Mobile urban vending should be permitted in all areas even outside the designated vendors' markets, unless designated as 'no-vending zone' through a participatory process. The 'no-vending zones' may be notified both in terms of location and time. (1) Locations should not be designated as 'no-vending' zones for frivolous reasons; the public benefits of declaration of a no-vending zone should clearly outweigh the potential loss of livelihood and non-availability of goods and services that it would involve.
- With the growth of city/ town every new area should have adequate provisions for street vendors.
- Designation of vendors markets/ no-vending zones should not be left to the sole discretion of any civic or police authority but must be accomplished by a participatory process by a **Town Vending Committee** ( which for large towns / cities may be constituted on the basis of wards) whose membership may be as follows:
  - Municipal Authority
  - Traffic and Local police
  - Public Land Owning Authority
  - Associations ( Market, Traders, Resident Welfare, slum & chawl etc.)
  - Representative from associations of Street vendors ( Static & mobile)
  - Representative from lead Nationalized bank/ Commercial Bank.

The hawkers' representatives should preferably constitute at least 25% to 40% of the total number of members of the Committee. At least 1/3rd of the representatives of street vendors should be women. Process for selection of street vendors' representatives should be based on the following criteria:

- **Membership based organizations**
- **Financial Accountability**

The Committee should ensure that provisions for space for vendors' markets are pragmatic, consistent with formation of natural markets, sufficient for existing demand for vendor's goods and services, as well as likely increase in line with anticipated population growth. Provisions of space may include temporary designation as vendors' markets ( e.g. as weekly markets) whose use at other times may be different (e.g. Public Park, parking lot). timing restriction on urban vending should correspond to the needs of ensuring non-congestion of public spaces/ public hygiene.

**The Committee should ensure continuation and up-gradation of weekly markets other functions of the committee are described below:**

**4.1.2 Quantitative Norms** refer to the norms on amount of space to be provided for vendors' markets. At the town/ city level enough space should be designated for vendors' markets at least to the extent of 2% to 2.5% of the total city population. Each town/ city may evolve its own quantitative norms, but after proper surveys ( See **Annexure-I** for indicative norms provided in Delhi Master Plan).

**4.1.3 Qualitative guidelines** refer to facilities to be provide at vendors' markets by the civic authorities. They would invariably include:

- Provide provisions for solid waste disposal
- public toilets to maintain cleanliness.
- Aesthetic design of mobile stalls. push carts
- Provision for electricity
- Provision for drinking water
- Provision for protective covers to protect their wares as well as themselves from heat, rain, dust etc.
- Storage facilities including cold storage.

## **4.2 Regulatory Process**

Traditionally issuing licenses to vendors was seen as an instrument to give some of them ' legal' status, in an environment where urban vending is ipso facto illegal, which would in turn remove the very basis of their harassment, extortion and eviction by the concerned authorities. However, numerical limits to such licenses, which are sought to be justified on the argument that congestion in public places would thus be avoided, has given rise to an elaborate regime of rent seeking. In the first instance, rent are derived from the regime of rent seeking. In the first instance, rent are derived from the issue of licenses, since the demand exceeds the ( often arbitrary) numerical limits of such licenses. Second, given the demand for services of Street Vendors exceeds the supply from licensed vendors, a number of unlicensed vendors seek to operate, and rents are extracted during enforcement by allowing them to operate without licenses. given these inadequacies of the licensing system and the associated rent seeking, doing away with licensing system is the appropriate course. However, the alternative should not only prevent rent seeking but also enable the livelihood- congestion trade-off to be resolved. The demand for vending in a particular area can be matched with the supply without over- congestion if zoning plans

Provide adequate vending spaces both with respect to location and time. A system of registration of hawkers and non-discretionary regulation of access to public spaces in accordance with the planning standards and nature of trade/service should be adopted. This is described in greater detail below.

#### **4.2.1 Registratin System**

- The power to register would be vested with **Town vending committee/ Ward vending Committee.**
- All vendors in each city should be registered at a nominal fee to be decided by the ULBs based on any reliable means of identification. There should preferably be no numerical restriction or quotas, or prior residential status requirements of any kind.
- Registration should be renewed after every three years.
- The registration process must be simple. The vendors will be issued **Identity Cards** which would contain:
  - Photographs of the husband and wife
  - Name of any one nominee from the family
  - names of other members in the family ( may be used for health or other social security programme)
  - Nature of business
  - Children below 14 years would not be allowed in the card for conduct of business.

**4.4.2 The Town vending Committee/ ward vending Committee** would be composed of representatives of hawkers, planners, police, local councilors, resident welfare associatins, traders associations and municipal functionaries and would be empowered to:

- Set the terms and conditions ( planning ) for hawking.
- Take corrective action against defiant hawkers.

#### **4.2.3 Collection of Revenue-**

The vendors would be charged a monthly fee for access to various services.

There should be direct linkage between the urban local bodies (ULBs) and hawkers for collection of:

- Registration fee
- Monthly maintenance charges- differentiated according to location/ type of business
- fines, if any, etc
- The Town Vending Committee/ Ward Vending Committee should be made available a proportion of revenue generated from registration fees and monthly fees from their ward to run their operations subject to a minimum grant from the local authority.

#### **4.3 Monitoring mechanism**

The Town Vending Committee/ Ward Committee would be entrusted with adequate powers and resources to:

- Monitor the hawking activity of a particular ward and the quality of the services provided
- Take corrective action, if required
- Report to City level Committee, if required
- Recommend revaluation/ changes in specified norms for hawking
- State level nodal officer to monitor and report to the Central Ministry on the functioning of the Street vendors of the State.

## **5. Relocation and Rehabilitation**

Street vendors are most vulnerable to forced eviction and denial of basic right to livelihood. It causes severe long-term hardship, impoverishment and other damage including loss of dignity. Therefore, no street vendor should be forcefully evicted. They would be relocated with adequate rehabilitation only where the land is needed for public purpose of urgent need. Therefore:

- a) Eviction should be avoided wherever feasible unless there is clear and urgent public need in the land in question.
- b) Where relocation is absolutely necessary, notice of minimum 30 days should be served to the concerned vendors.
- c) Affected vendors/ representative's involvement in planning and implementation of the rehabilitation project.
- d) Affected vendors should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms to pre-evicted levels.
- e) Loss of assets should be avoided and if possible compensated.
- f) State machinery must take comprehensive measures to check and control the practice of forced evictions.

No hawker/ street vendor should be arbitrarily evicted in the name of 'beautification' of the cityscape. The beautification and clean up programmes undertaken by the states or towns should actively involve street vendors in a positive way as a part of the beautification programme.

## 6. Municipal and Plice Laws - Required Interventions

**6.1** There are certain sections of the Plice Act and Indian Penal Code, which are the main deterrents to the profession of vending. They are as follows:

- **Section 283 of the IPC** ( Danger or obstruction in public way or the line of navigation ) Whoever, by doing any act or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees. The offence punishable under this section is the nuisance of causing obstruction.
- **Section 34 of the Police Act** No person shall cause obstruction in any street or public place by-
  - Allowing animals or vehicle
  - leaving any vehicle standing or fastening any cattle in the street or in the public place
  - using any part of a street or public place as a halting place for vehicles or cattle
  - leaving any box, bale package or other things whatsoever or upon a street for an unreasonable length of time ou contrary to any regulation
  - By exposing anything for sale or setting out anything for sale in or upon any stall, booth, board, cask, and basket or in any other way whatsoever.

These two provisions create the contradiction between a legal ' licensed' vendor and 'illegal' obstruction or causing nuisance resulting in physical eviction of even licensed vendors.

**6.2** The policy recommends that Central Government government and all States should amend the Police Act and Rules/ Regulations thereunder and add a rider as follows:

" Except in case of street vendors / hawkers and service providers with certain reasonable regulations"

**6.3** The Central Government should also amend the section 283 and Section 431 of IPC and include the rider as mentioned above.

**6.4** The State government should also remove the restrictive provisions in the Municipal Acts to make street vendors inclusive in the city plan/ cityscape.

## **7. Self Regulation**

Besides, Monitoring by external authorities, it is extremely important for the street vendors to practice self- regulation especially with respect to the following:

**7.1 Hygiene and quality control:** it is most important with respect to food vending especially in sensitive areas like near schools, parks etc where there is considerable exposure to children. Though quality control is essential, the practice of ' health inspector' may not necessarily be suitable or productive.

**7.2 Cleanlines:** The street vendors should assume responsibility to keep the environs clean- by properly disposing the waste etc.

**7.3 Scale of operation** (Number of vendors to operate in specified area)  
Every land use has a ceiling and it is true for hawking also. Overuse can cause complications drawing stringent actions, which can be avoided if the specifications are adhered to. Therefore, the quantitative norms should be respected by hawkers as a measure of self - regulation in terms of

number of a typical trade to be allowed in a place. Registration system in participation with hawkers union/ association may be used to regulate the scale of operation so that the ceiling limit is not crossed.

## **8. OTHERS**

### **8.1 Access to Credit**

Street Vendors being a part of the unorganized sector have little or no access to credit from the formal sector financial institutions particularly for their economic activities without which they will have to depend on private money lenders borrowing at higher interest rates. NABARD has already started refinancing banks in rural areas for on-lending to Self- Help Groups ( SHGs) for income generation activities. Likewise, banks should be encouraged to extend credit to SHGs of vendors.

The Vendors' Associations should be assisted by NGOs and under SJSRY Scheme for organizing SHGs, networking and federating the SHGs to create a financial interface between the vendors and formal sector financial institutions to gain access to larger credit not only for income generation but also for housing whenever the need arises.

### **8.2 Insurance / Social Security**

While the Insurance Sector has opened up in a big way, according to IRDA, only 12% of the insurable population in India is covered by insurance, which means an average Indian is abysmally underinsured. Insurance is not just a privilege but also a social responsibility. The Street Vendors being a part of the unorganized sector, the vulnerability is very high. Hence, they should be brought under insurance cover through the federation.

Various products that are offered by the Insurance Companies include death, illness, disability, group insurance, pension fund etc.

In our country, though the need for social security is very high, provision of extending social security to the unorganized sector through government sources with meager sources would be a difficult proposition. So far, Government efforts have been restricted to old Age Pension. Hence, it is imperative that the unorganized sector should evolve a mechanism to mobilize funds to invest in extending social security to the clients in the unorganized sector.

Social security generally covers medical care, sickness, maternity benefits, employment injury, inability and survivors ' benefits, old age pension etc. Social security laws in our country are broadly divided into two categories viz. contributory and non-contributory. The contributory laws are those which provide for financing the social security programmes by contribution paid by workers and employers and in some cases supplemented by contributions/ grants from the government. Important contributory schemes include ESI, Provident Fund, Pension and Deposit Linked insurance schemes etc. Non-contributory laws are workmen's Compensation Act, maternity benefit Act and payment of Gratuity Act. Most of these acts are applicable to organised sector labour.

The Street Vendors are not only a part of the unorganized sector but also are selfemployed and the contribution has to come only from the Street Vendors themselves. Though insurance schemes are available to the unorganized sector of which Street Vendors are a part as the workers are dispersed, it is difficult for the promoters of these schemes to create / gain access for their assets/ products. Basically, two options are available for enlisting Street Vendors for the social security benefits:

**A.** Collection of the contribution of Street Vendors by the registration office on monthly basis.

- Creation of welfare Board for Street Vendors. Either bank should be instructed to collect the money from vendors, or the vendors can deposit their contribution in banks will transfer the money to the Welfare Boards. ministry of labour should take initiative for creating Welfare Boards on the lines of Welfare Board for construction Workers/ beedig Workers
- A fixed amount will be deposited for a variety of social security benefits including health, medicare, family pension. This kind of arrangement would require enactment of an Act.

**B.** Other option is that the Street Vendors' unions should be assisted by NGOs or other agencies to promote Self- Help Groups and networking and federating them to emerge as a financial institution, which will look into extending credit and also delivering other products such as insurance, old age pension etc.

The products under social security programme could interalia also cover the following:

- insurance for health facilities;
- maternity benefits
- old age pension
- child care facilities

**Street vendors are vulnerable to loss of goods due to natural as well as manmade disturbances that adversely hampers their economic situation. There should be special insurance schemes to cover their products.**

### **8.3 Training and Skill Upgradation**

Street vendors being micro enterprises should be provided with training to upgrade their technical and business skills so as to increase their income as well as to look for alternatives.

## **9. Organizing the Street Vendors**

**9.1** The Street Vendors are part of the unorganized sector. The main objective to get the street vendors to get organised is for providing the following services:

- Access to group insurance for a variety of insurance products
- Access to financial services
- Development of small and medium enterprise
- Housing
- Vocational Training and Capacity building for awareness as well as skill up-gradation

**9.2** In addition, it is also important to organize them for creation of a united front for negotiation/ protection of their rights. In this regard, it is required to promote organisations of street vendors' e.g. SHGs, Co-operatives and other forms to facilitate their empowerment. The organization should build adequate systems for managing finances / investment to be handled by professionals.

## **10. Role of State Governments**

All State governments should ensure that institutional arrangements, legislative frameworks and other necessary actions achieve conformity with the National Policy for Street Vendors.

## 11. Action Plan

A comprehensive survey of street vendors to build an adequate database on street vendors particularly in large and medium cities should be undertaken by the State Governments.

### Annexure- I

**The Delhi Master Plan proposes to incorporate the informal sector in trade in the planned development of various zones. The norms are given below:**

<b>Retail Trade</b>	<b>Norms</b>
<ul style="list-style-type: none"> <li>• Central Business District</li> </ul>	3-4 Units per 10 formal shops
<ul style="list-style-type: none"> <li>• Sub-CBD, District Centre, Community Centre, Convenience Shopping Centre</li> </ul>	As specified in the norms separately
<ul style="list-style-type: none"> <li>• Govt. &amp; Commercial offices</li> </ul>	5-6 units per 1000 employees
<ul style="list-style-type: none"> <li>• Wholesale Trade &amp; Freight complexes</li> </ul>	3-4 units per 10 formal
<ul style="list-style-type: none"> <li>• Hospital</li> </ul>	3-4 units per 100 beds
<ul style="list-style-type: none"> <li>• Bus Terminal</li> </ul>	1 units per 2 bus- bays
<b>Schools</b> <ul style="list-style-type: none"> <li>• Primary</li> <li>• Secondary/Senior/ integrated</li> </ul>	3-4 units 5-6 units
<b>Parks</b> <ul style="list-style-type: none"> <li>• Regional/ District parks entry</li> <li>• Neighborhood parks</li> <li>• Residential</li> <li>• Industrial Railway Terminus</li> </ul>	8-10 units at each major 2-3 units 1 unit/ 1000 population 5-6 units per 1000 employee to be based on surveys at the time preparation of the project .

**CHAPTER- VI****NATIONAL POLICY ON URBAN STREET VENDORS, 2009**

**6.1** subsequent to the National Policy on Urban Street Vendors, 2004, its review was ordered by the Government of India following complaints by street vendors and their organizations and certain observations made by the **Hon'ble Supreme Court** in its judgments related to street vendors a new National Policy on Urban Street Vendors, 2009 was framed on 17.06.2009.

**6.2 NATIONAL POLICY ON URBAN STREET VENDORS, 2009, runs as follows:-**

**1. Rationale**

1.1 Street Vendors form a very important segment of the unorganized sector in the country. It is estimated that in several cities street vendors count for about 2 per cent of the population. Women constitute a large segment of these street vendors in almost every city. Street vending is not only a source of self-employment to the poor in cities and towns but also a means to provide 'affordable' as well as 'convenient' services to a majority of the urban population.

1.2 Street vendors are often those who are unable to get regular jobs in the remunerative formal sector on account of their low level of education and skills. They try to solve their livelihoods issues through their own meager financial resources and sweat equity. Estimates of average earning of street vendors in 2000 by studies, referred to in the Report on Conditions of Work and Promotion of livelihoods in the Unorganised Sector, 2007 of the National Commission for enterprises in the unorganised Sector ( NCEUS), suggest that the vendors' earnings are very low although they vary from trade to trade and from

are very low although they vary from trade to trade and from location to location. The men's average daily income is around Rs. 70 in most cities excepting Patna, where it is slightly lower. Women earn considerably less- Rs. 40 per day. The monetary problem is compounded by the fact that the vendors have scarce resources for their trade and they need to obtain credit by borrowing. Most of the street vendors report having borrowed from money lenders who charge exorbitant interest rates. In Bhubaneswar the credit is obtained from the wholesalers in the form of advances to be paid back at the end of the day at rates up to 110 per cent.

1.3 Public authorities often regard street vendors as a nuisance and as encroachers of sidewalks and pavements and do not appreciate the valuable services that street vendors render to the common man. However, as the Supreme Court of India has ruled in a 1989 case: " if properly regulated, according to the exigency of the circumstances, the small traders on the side walks can considerably add to the comfort and convenience of the general public, by making available ordinary articles of everyday use for a comparatively lesser price. An ordinary person, not very affluent, while hurrying towards his home after a day's work, can pick up these articles without going out of his way to find a regular market. The right to carry on trade or business mentioned in Article 19(1) g of the Constitution, on street pavements, if properly regulated, cannot be denied on the ground that the streets are meant exclusively for passing or re-passing and no other use." **[Sodan Singh & others Versus new Delhi Municipal Council, 1989]**

1.4 Accordingly, the starting point for this Policy is the recognition of the positive role of street vendors in providing essential commodities to people at affordable prices and at convenient places. it also recognizes the need for regulation of street vending by way of

designated 'Restriction- free Vending', 'Restricted Vending' and 'No Vending' zones based on certain objective principles. Such regulation is consistent with the imperative to ensure free flow of traffic, smooth movement of pedestrians and maintenance of cleanliness and public hygiene while facilitating vendors/ hawkers to sell goods/ services at convenient locations frequented by the public.

1.5 This Policy also aims to reflect the spirit of the constitution of India on the right of citizens to equal protection before the law (subject to reasonable restriction) as well as their right to practice any profession, occupation, trade or business; and the duty of the State to strive to minimize the inequalities in income, and to adopt policies aimed at securing that the citizens have the right to adequate means of livelihood as enshrined in Article 14, 19(1) (g), 38(2), 39(a), 39(b) and 41 of the Constitution.

1.6 This Policy recognizes that to be able to practice any profession or to carry on any occupation, trade or business is a fundamental right of every citizen in our country. A person who wants to buy some items in wholesale and sell the same in retail by hawking is actually exercising such a right. Thus, it would be desirable, other things being equal, that such a right is not circumscribed unless reasonable restrictions are warranted in public interest. At the same time, it will be impracticable that every hawker be provided a permanent site because most cities/ towns suffer from severe constraints of land for commercial vending. However, it should be possible to demarcate vending zones and vendors; markets where peripatetic and mobile vendors can sell their wares within certain time restrictions and subject to regulatory stipulations.

1.7 Street vendors provide valuable services to the urban masses while eking out a living through their own enterprise, limited resources and labour. They facilitate convenient, efficient and cost-effective distribution of goods and services to the public. They also contribute significantly to local economic growth and vitality of the urban economies. This Policy recognizes that street vendors constitute an integral and legitimate part of the urban retail trade and distribution system for daily necessities of the general public. As the street vendors assist the Government in combating unemployment and poverty, it is the duty of the State to protect the right of these micro entrepreneurs to earn an honest living. Accordingly, the Policy aims to ensure that this important occupational group of the urban population finds due recognition at national, state and local levels for its contribution to the society. The Policy is meant to foster a congenial environment for the urban street vendors to carry out their activities. It is conceived as part of a major national initiative towards the alleviation of poverty in cities and towns.

1.8 A centre piece of this Policy is the role of Town Vending Committee ( henceforth referred to as TVC ) to be constituted at City/ Town level. A TVC shall be coordinated by a convener who should be nominated by the urban local body concerned. The Chairman of TVC will be the Commissioner/ Chief Executive officer of the concerned urban local body. The TVC will adopt a participatory approach and supervise the entire process of planning, organization and regulation of street vending activities, thereby facilitating the implementation of this Policy. Further, it will provide an institutional mechanism for due appreciation of the ground realities and harnessing of local knowledge for arriving at a consensus on critical issues of management of street vending activities. The TVC may constitute, in collaboration with the local authority, ward vending Committee to assist in the discharge of its functions.

1.9 This Policy adopts the considered opinion that there should not be any cut off date or limit imposed on the number of vendors who should be permitted to vend in any city/ town, subject to registration of such vendors and regulation through the TVC. At any time, an urban poor person can decide that he or she would like to go to a wholesale market, purchase some items and sell these in vending zones during permitted hours to make an honest living. The vendor may not be subject to undue restrictions if he / she wishes to change the trade. In order to make this conceptual right a practically feasible right, the following would be necessary:

- (i) Vendor markets/ outlets should be developed in which space could be made available to hawkers/ vendors on a time- sharing model on the basis of a roster. Let us say that there are 500 such vending places in about a 100 new vendors' markets/ puch cart markets/ motorized vending outlets. Let us also assume that there are 5,000 vendors who want to apply for a vending site on a tike- sharing basis. Then by a simple process of mathecalical analysis, a certain number of days or hours on particular days could be fixed for each vendor in a vending place on a roster basis through the concerned TVC .
- (ii) In addition to vendors' markets/ outlets, it would be desirable to promote week-end markets in public maidans, parade grounds or areas meant for religious festivals. The week-end markets can be run on a first- come- first - serve basis depending on the number of vending sites that can be accommodated in the designated area and the number of vendors seeking vending places. however, in order to be equitable, in case there is a heavy demand from vendors, the number of week-ends a given vendor can be allocated a site on the first - come- first- serve basis can be restricted to one or two in a month depending on demand.

- (iii) A registered vendor can be permitted to vend in designated vending zones without restrictions, especially during non-rush hours. Again in places like verandahs or parking lots in areas such as central business districts, e.g. Connaught Place in New Delhi, vendors' markets can be organized after the closing of the regular markets. Such markets, for example, can be run from 7.30 PM to 10.30 PM as night bazaars on a roster basis or a first- come- first - serve basis, with suitable restrictions determined by the concerned TVC and authorities.
- (iv) It is desirable that all City/Town master Plans make specific provisions for creating new vending markets at the time of finalization/ revision of Master Plans, Zonal Plans, and Local Area Plans. The space reserved in such plans should be commensurate with the current number of vendors and their rate of growth on perspective basis ( say 10-20 years) based on rate of growth over a preceding 5-year period. This Policy attempts to address some of the above concerns, keeping the interests of street vendors in view vis-à-vis conflicting public interests.

## **2. Definitions**

2.1 For the purposes of this Policy, a ' Street Vendor' is defined as ' a person who offers goods or services for sale to the public in a street without having a permanent built-up structure. 'There are three basic categories of street vendors: (a) stationary; (b) peripatetic and (c) mobile. Stationary vendors are those who carry out vending on a regular basis at a specific location, e.g. those occupying space on the pavements or other public places and / or private areas either open/ covered (with implicit or explicit consent) of the authorities. Peripatetic vendors are those who carry out vending on foot and sell

their goods and services and includes those who carry baskets on their head/ slung on their shoulders and those who sell their goods on pushcarts. Mobile street vendors are those who move from place to place vending their goods or services on bicycle or mobile units on wheels, whether motorized or not. They also include vendors selling their wares in moving buses, local trains etc.

2.2 In this policy, the term ' Urban Street Vendor' incorporates all other local/ regional specific terms used to describe them, such as hawkers, pheriwallas, rehri-patri wallas, footpath dukandars, sidewalk traders, etc. The land, premises, trains owned by Indian Railways, its subsidiaries including Public Sector undertakings, Corporations or other undertakings where Indian Railways holds share, are exempted from the ambit of this Policy.

2.3 The term ' Town Vending Committee' means the body constituted by an appropriate Government for protecting the livelihoods of street vendors while at the same time imposing reasonable restrictions, if necessary, for ensuring flow of traffic and for addressing concerns relating to public health and hygiene in the public interest. The TVC may constitute, in such manner and for such purposes as it deems fit, Ward Vending Committees, if required.

2.4 The term ' Local Authority' ( referred to as Municipal Authority in this Policy) in this Policy means a Municipal Corporation, Municipal Council, Nagar Panchayat, Cantonment Board, Civil Area Committee appointed under Section 47 of the Cantonment Act, 2006 or such other body legally entitled to function as a local authority in any city or town to provide civic services and regulate street vending, and includes the " planning authority" which regulates the land use in that city or town at the city/ locality level.

2.5 The term " Natural Market" means a market where sellers and buyers have traditionally congregated for more than a specified period for the sale and purchase of a given set of products or services as assessed by the local authority.

### **3. Objectives**

#### **3.1 Overarching Objective The overarching objective to be achieved through this Policy is:**

To provide for and promote a supportive environment for the vast mass of urban street vendors to carry out their vocation while at the same time ensuring that their vending activities do not lead to overcrowding and unsanitary conditions in public spaces and streets.

#### **3.2 Specific Objectives**

This Policy aims to develop a legal framework through a model law on street vending which can be adopted by states/ Union Territories with suitable modifications to take into account their geographical/ local conditions. The specific objectives of this Policy are elaborated as follows:

- (a) **Legal Status:** To give street vendors a legal status by formulating an appropriate law and thereby providing for legitimate vending/ hawking zones in city/ town master or development plans including zonal, local and layout plan and ensuring their enforcement;
- (b) **Civic Facilities:** To provide civic facilities for appropriate use of identified spaces as vending/ hawking zones, vendors' markets or vending areas in accordance with city/town master plans including zonal, local and layout plans;
- (c) **Transparent Regulation:** To eschew imposing numerical limits on access to public spaces by discretionary licenses, and instead moving to nominal fee-based regulation of access, where previous occupancy of space by the street vendors determines the allocation of space or creating new informal sector markets where space access is

on a temporary turn-by- turn basis. All allotments of space, whether permanent or temporary should be based on payment of a prescribed fee fixed by the local authority on the recommendations of the Town Vending Committee to be constituted under this Policy;

**(d) Organization of Vendors:**

To promote, where necessary, organizations of street vendors, e.g. unions/ co operatives/ associations and other forms of organizations to facilitate their collective empowerment;

**(e) Participative Processes:**

To set up participatory processes that involve firstly, local authority, planning authority and police; secondly, associations of street vendors; thirdly, resident welfare associations and fourthly, other civil society organizations such as NGOs, representatives of professional groups ( such as lawyers, doctors, town planners, architects etc.), representatives of trade and commerce, representatives of scheduled banks and eminent citizens;

**(f) Self - regulation:** To promote norms of civic discipline by institutionalizing mechanisms of self management and self- regulation in matters relating to hygiene, including waste disposal etc. amongst street vendors both in the individually allotted areas as well as vending zones/ cluster; and

**(g) Promotional Measures:**

To promote access of street vendors to such services as credit, skill development, housing, social security and capacity building. For such promotion, the services of Self Help Groups ( SHGs) / Co-operatives/ Federations/ Micro Finance Institutions ( MFIs), Training Institutes etc. should be encouraged.

## **4. Key elements of Policy**

### **4.1 Spatial Planning Norms**

Following the Supreme Court orders, some cities have drafted guidelines for regulating urban vending activities. However, the provisions made so far do not generally recognize the fact that demands for the wares/ services of street vendors are highly specific and vary with location and time. This manifests in the natural propensity of street vendors to locate at particular places at particular times. Spatial planning norms should not disregard such "natural markets" but fully take them on board. There is need for the master/ Zonal/ local/ layout development plans to be ' inclusive' and address the requirements of space for street vending as an important urban activity through norms for reservation of space for street vendors in accordance with their current population, projected growth of street vendors, based on the rate of growth in the previous five years and the average number of customers that generally visit informal markets in vending zones. It is equally important that the provisions made in zonal, local or layout plans for street vending are implemented in an equitable and efficient manner.

### **4.2 Demarcation of Vending Zones**

The demarcation of ' restriction- free Vending Zones', 'Restricted Vending Zones' and ' Novending Zones' should be city/ town specific. In order to ensure that the city/ town master/ development plans provide for adequate space for street vendors to run their activities, the following guidelines would need to be adhered to:

(a) Spatial planning should take into account the natural propensity of street vendors to locate in certain places at certain times in response to the patterns of demand for their goods/ services. For this purpose, photographic digitalized surveys of street vendors and their locations

should be conducted by competent professional institutions/ agencies. This is to be sponsored by the concerned Department of State Government/ Urban Development Authority/ Local Authority.

- (b) Municipal Authorities should frame necessary rules for regulating entry of street vendors on a time sharing basis in designated vending zones keeping in view three broad categories - registered vendors who have secured a license for a specified site/ stall; registered street vendors in a zone on a time sharing basis; and registered mobile street vendors visiting one or the other vending zone;
- (c) Municipal Authorities should allocate sufficient space for temporary ' vendors' markets' ( e.g. Weekly Haats, Rehri Markets, Night bazaars, Festival Bazaars, Food Streets Food Marts etc.) Whose use at other times may be different ( e.g. public park, exhibition ground, parking lot etc.). These ' Vendors Markets' may be established at suitable locations keeping in view demand for the wares/ services of street vendors. Timing restrictions on vending should be in accordance with the need for ensuring non-congestion of public spaces/ maintaining public hygiene without being ad hoc, arbitrary or discriminatory. Rationing of space should be resorted to if the number of street vendors exceeds the number of spaces available. Attempts should also be made to provide ample parking areas for mobile vendors for security of their vehicles and wares at night on payment of suitable fees.
- (d) Mobile vending should be permitted in all areas even outside the 'Vendors Markets', unless designated as ' No-vending Zone' in the zonal, local area or layout plans under the master/ development plan of each city/ town. ' Restricted Vending' and ' No vending Zones'

may be determined in a participatory manner. 'Restricted Vending Zones' may be notified in terms of both location and time. Accordingly, a particular location may be notified as ' No-vending Zone' only at particular times of the day or days of the week. Locations should not be designated as ' No-vending Zones' without full justification; the public benefits of declaring an area/ spot as ' No-vending Zone' should clearly outweigh the potential loss of livelihoods and non-availability of ' affordable' and 'convenient' access of the general public to street vendors.

- (e) With the growth of cities/ towns in response to urbanization, the statutory plans of every new area should have adequate provision for ' vending/ hawking Zones' and ' Vendors markets.'

### **4.3 Quantitative Space Norms**

These refer to the norms on the amount of space to be provided for vending Zones in plans and to vendors in designated Vendors' markets. Every land use has a carrying capacity ceiling or threshold limit for the users and the same is true of the number of vendors operating in a clearly demarcated area. Overuse can cause congestion and reduction of public hygiene. Thus, there is a need to fix space norms at both city/zonal development plan and local/ layout plan levels. Each city/ town may, however, evolve its own quantitative norms but only after conducting proper surveys and evaluating actual needs, and taking the help of professional institutions/ agencies. The principle of " natural markets" should be followed in designating areas as Vending zones and their maximum holding capacity should be determined based on this principle.

#### **4.4 Provision of Civic facilities**

Municipal Authorities need to provide basic civic facilities in Vending Zones/ Vendors' markets which would include:

- (i) Provisions for solid waste disposal;
- (ii) Public toilets to maintain cleanliness;
- (iii) Aesthetic design of mobile stalls/ push carts;
- (iv) Provision for electricity;
- (v) Provision for drinking water;
- (vi) Provision for protective covers to protect wares of street vendors as well as themselves from heat, rain, dust etc;
- (vii) Storage facilities including cold storage for specific goods like fish, meat and poultry; and
- (viii) Parking areas. The Vendors' Markets should, to the extent possible, also provide for crèches, toilets and restrooms for female and male members.

#### **4.5 Organisation & Participative Processes**

##### **4.5.1 Town Vending Committee**

- (a) Designation or demarcation of ' Restriction- free Vending Zones'/ 'Restricted Vending Zones'/ No- vending Zones' and Vendors' Markets should be carried out in a participatory manner by the town Vending Committee, to be established at at town/ city level. A TVC should consist of the Municipal Commissioner/ Chief Executive Officer of the urban local body as Chairperson and such number of members as may be prescribed by the appropriate Government, representing firstly, local authority; planning authority and police and such other interests as it deems proper. Secondly, associations of street vendors; thirdly, resident welfare associations and Community based Organisations (CBOs); and fourthly, other civil society organization such as NGOs,

representatives of professional groups ( such as lawyers, doctors, town planners, architects etc.), representatives of trade and commerce, representatives of scheduled banks and eminent citizens. This Policy suggests that the representatives of street vendors' associations may constitute forty per cent of the number of the members of the TVC and the other three categories may be represented in equal proportion of twenty per cent each. At least one third of the representatives of categories of street vendors, resident welfare associations and other civil society organizations should be women to provide a gender focus in theTVC. Adequate/ reasonable representation should also be provided to the physically challenged in the TVC. The process for selection of street vendors' representatives should be based on the following criteria: M Participation I membership- based organizations; and M Demonstration of financial accountability and civic discipline.

- (b) The TVC should ensure that the provision of space for vendors' markets are pragmatic, consistent with formation of natural markets, sufficient for existing demand for the street vendors' goods and services as well as likely increase in accordance with anticipated population growth.
- (c) The TVC should monitor the provision of civic facilities and their functioning in Vending Zones and Vendors'Markets and bring shortcomings, if any to the notice of the concerned authorities of the urban local body. The TVC should also promote the organization of weekly markets, festival bazaars, nigh bazaars, vending festivals on important holidays etc. as well as take up necessary improvement of infrastructure facilities and municipal services with the urban local body concerned.

**4.5.2 The TVC shall perform the following functions:**

- a) Undertake periodic survey/ census to assess the increase or decrease in the number of street vendors in the city/town/wards/ localities;
- b) Register the street vendors and ensure the issuance of identity Cards to the street Vendors after their preparation by the Municipal Authority;
- c) Monitor the civic facilities to be provided to the street vendors in vending zones/ vendors' markets by the Municipal Authority;
- d) Assess and determine maximum holding capacity of each vending zone;
- e) work out a non-discretionary system and based on the same, identify areas for hawking with no restriction, areas with restriction with regard to the dates, days and time, and, areas which would be marked as 'No Vending Zones';
- f) Set the terms and conditions for hawking and take corrective action against defaulters;
- g) Collect fees or other charges as authorized by the competent civic authority;
- h) Monitor to ensure that those allotted stalls/ vending sports are actually using them and take necessary action to ensure that these are not rented out or sold to others;
- i) Facilitate the organization of weekly markets, festival bazaars, night bazaars, vending festivals such as food festivals to celebrate important occasions/ holidays including city / town formation days etc; and
- j) Ensure that the quality of products and services provided to the public is as per standards of public health, hygiene and safety laid down by the local authority.

4.5.3 In order to implement the decisions of a TVC, the concerned Municipal Authority shall designate an official, who shall act as the convenor of the TVC as well as be responsible for implementing its decisions.

4.5.4 Registration system for Street Vending A system of registration of vendors/ hawkers and non-discretionary regulation of their access to public spaces in accordance with the standards of planning and the nature of trade/ service should be adopted. This system is described in greater detail below.

a) **Photo Census of Vendors:**

The Municipal Authority, in consultation with the TVC should undertake a comprehensive, digitalized photo census/ survey/ GIS Mapping of the existing stationary vendors with the assistance of professional organizations/ experts for the purpose granting them lease to vend from specific places within the holding capacity of the vending zones concerned.

b) **Registration of Vendors:**

The power to register vendors would be vested with the TVC. Only those who give an undertaking that they will personally run the vending stall/ spot and have no other means of livelihood will be entitled for registration. A person will be entitled to receive a registration document for only one vending spot for him/her (and family). He/she will not have the right to either rent or lease out or sell that spot to another person.

c) **New Entrants:**

Those left out in the photo census or wishes to take up street vending for the first time will also have a right to apply for registration as vendors provided they give a statement on oath that they do not have any other means of livelihood and will be personally operating from the vending spot, with help from family members.

d) **Identity Cards:**

Upon registration, the concerned Municipal Authority would issue an identity Card with Vendor Code number, vendor Name, Category of Vendor etc. in writing to the street vendor, through the TVC concerned containing the following information:

(i) Vendor Code No.

(ii) Name, Address and photograph of the vendor;

(iii) Name of any one Nominee from the family/ and / or a family helper;

(iv) Nature of Business;

(v) Category ( Stationary/ Mobile); and

(vi) If Stationary, the Vending Location. Children below 14 years would not be included in the identity Card for conduct of business.

e) **Registration Fee:**

All Vendors in each city/ town should be registered at nominal fee to be decided by the Municipal Authority concerned based on the photo census or any other reliable means of identification such as the use of biometric techniques.

f) **Registration Process:**

- (i) The registration process must be simple and expeditious. All declarations, oath, etc. may be on the basis of self-declaration.
- (ii) There should preferably be no numerical restriction or quotas for registration, or prior residential status requirements of any kind.
- (iii) Registration should be renewed after every three years. However, a vendor who has rented out or sold his spot to another person will not be entitled to seek re-registration.
- (iv) There may be a "on the spot" temporary registration process on renewable basis, in order to allow the street vendors to immediately start their earnings as the registration process and issue of I- card etc. may take time.

#### **4.6 Collection of Revenue**

4.6.1. Street vendors would be charged a monthly fee towards the space they use and the civic services they receive. There should be a direct linkage between the Municipal Authority and street vendors for the collection of:

- (a) Registration fee;
- (b) Monthly maintenance charges- differentiated according to location/ type of business; and,
- (c) Fines and other charges, if any.

4.6.2 A TVC should have access to a proportion of revenue generated from registration fees and monthly fees to run its operations but should in addition receive a minimum grant from the Municipal Authority.

4.6.3 The collection of revenue by the Municipal Authority through TVC should ensure that it is based on a predetermined rate of fee and not amenable to any kind of discretion or extortion. If complaints on this account are registered with the TVC, adequate measures should be taken to redress the same expeditiously.

#### **4.7. Self Management & Regulation**

This policy advocates the encouragement of collective arrangements by the street vendors to redress any harmful effects on the locality caused by the occupation of street vending. Such arrangements should cover waste disposal, hygiene in the area of vending as well as in the zone/ cluster occupied by street vendors as a whole for their activities, traffic management etc. Quantitative norms of spatial planning should be respected by the street vendors as a measure of self- regulation in terms of the number of a typical trade to be allowed in a particular place. Registration system with the participation of street vendors' associations may be used to regulate the scale of operation in vending zones or vendors' markets so that the threshold limits on their holding capacity are not exceeded.

#### **5. Eviction, Relocation and Confiscation**

5.1 If authorities come to the conclusion in any given instance that genuine public obstruction of a street, side walk etc. is being caused by street vending, there should be a mechanism of due notice to the street vendors. The vendors should be informed/ warned by way of notice as the first step before starting the clearing up or relocation process. In the second step, if the space is not cleared within the notified time, a fine should be imposed. if the space is not cleared even after the notice and imposition of fine, physical eviction may be resorted to. In the case of vending in a ' No-vending Zone', a notice of

at least a few hours should be given to a street vendor in order to enable him or her clear the space occupied. In case of relocation, adequate compensation or reservation in allotment of new vending site should be provided to the registered vendors.

5.2 with regard to confiscation of goods ( which should happen only as a last resort rather than routinely), the street vendors shall be entitled to get their goods back within a reasonable time on payment of prescribed fee, determined by TVC.

5.3 In case of peripatetic vendors or vendors occupying space on a time sharing basis, the vending activity will be regulated in such a manner that the vendors remove all their wares every day/ on expiry of the time-sharing period allotted. In case of mobile vending outlets, suitable regulations should be put in place for ensuring flow of traffic and public health and hygiene in the public interest.

5.4 The appropriate government may make suitable amendments to their existing laws/ rules, with a view to removing impediments in the implementation of this Policy and to prevent the undue harassment of street vendors.

## **6. Promotional Measures**

### **6.1. Public health & Hygiene**

Every street vendor shall pay due attention to public health and hygiene in the vending zone/ vendors' market concerned and the adjoining area. He/ She shall keep a waste collection basket in the place of vending. Further, he/ she shall contribute to/ promote the collective disposal of waste in the vending zone/ area. Associations of/ for street vendors may construct public toilet facilities which may be run by them on " pay and use" basis. To promote such associations.

The Central Government/ State Governments/ Municipal Authorities shall encourage the organization of/ for street vendors, by providing financial assistance.

## **6.2 health of Street Vendors**

The State Government / Municipal authorities may take special steps to cover street vendors and their families with benefits of programmes such as preventive and curative health care including reproductive and child health care facilities and health insurance.

**6.3 Education & Skills Training** street vendors, being micro entrepreneurs should be provided with vocational education and training and entrepreneurial development skills to upgrade their technical and business potentials so as to increase their income levels as well as to look for more remunerative alternatives.

## **6.4 Credits & Insurance**

**6.4.1** Credit is an important requirement in street vending, both to sustain existing activity and to upscale it. Since vendors work on a turnover basis, they often take recourse to high interest loans from non-institutional lenders. Although they usually demonstrate high repayment capacity, absence of collateral and firm domiciliary status usually debar them from institutional credit. State Governments and the Municipal Authorities should enable Self- Help Groups (SHGs) and organizations of street vendors to access credit from various sources, especially micro-finance and should take steps to link street vendors with formal credit structures. Street vendors should also be assisted in obtaining insurance through Micro- insurance and other agencies.

6.4.2 With respect to credit, the Credit Guarantee Fund Scheme for Small Industries (CGFSI), designed by the Ministry of Micro, Small & Medium Enterprises, Government of India and the Small Industries Development bank of India (SIDBI) may be extended to the street vendors. This scheme aims at resolving the problem of collaterals, and inducing banks to gradually move away from a completely risk-averse stance toward small scale industries.

6.4.3 The registration process undertaken by the TVC based on field surveys through professional institutions/ agencies and the domiciliary status confirmed by them on the identity Card as also in their records should make it possible to cover a large number of street vendors under institutional credit.

### **6.5. Social Security**

Street vendors as a group belong to the unorganised sector of the economy. As such, they don't have access to government assisted social security. However, in some States, social security schemes such as Old Age pension and other benefits are being provided through the Welfare Boards and similar bodies. But, their coverage of street vendors is very small. There are a few Non-Government Organisations (NGOs), who organize social security schemes for the street vendors. The Central Government aims to extend social security cover in the unorganised sector as a whole and the street vendors should be suitably covered. The National efforts should be supplemented by efforts of State Governments/ Municipal Authorities and organizations of/ for street vendors to take care of contingencies such as sickness, maternity and old age.

6.6 Allotment of space/ stationary Stalls Stationary vendors should be allowed space/ stalls, whether open or covered, on license basis after photo census/ survey and due enquiry in this regard, initially for a period of 10 years with the provision that only one extension of ten years shall be provided thereafter. After 20 years, the vendor will be required to exit the stationary stall ( whether open or covered ) as it is reasonably expected that the licensee would have suitably enhanced his/ her income, thereby making the said stall available for being licensed to a person belonging to the weaker sections of society. Wherever vending stall/ vending space is provided to a vendor on a lease basis for a certain number of years, care should be taken that adequate reservation is made for the SCs/STs in accordance with their share in the total population of the city. Similarly, priority should be given to physically challenged/ disabled persons in the allocation of vending stalls/ vending spaces as vending space can be a useful medium for rehabilitating physically challenged/ disabled persons. Further, a suitable monitoring system should be put in place by the TVC to ensure that the licensees of the stationary stalls do not sell/ let out their stalls.

### **6.7 Rehabilitation of Child Vendors**

To prevent vending by children and seek their rehabilitation wherever such practice exists, in conformity with the Child Labour ( Prohibition & Regulation) Act, 1986, the State Government and Municipal Authorities should undertake measures such as sending the children to regular or bridge schools, imparting them skills training etc.

### **6.8 Promoting vendors' organizations**

To enable street vendors to access the benefits of social security schemes and other promotional measures in an effective manner, it is essential that the street vendors are assisted to form their own organizations. The TVC should take steps to facilitate the formation

and smooth functioning of such organizations of street vendors. Trade unions and other Voluntary organizations should play an active role and help the street vendors to organize themselves by providing counseling and guidance services wherever required.

### **6.9 other Promotional measures**

The Government of India is considering legislation for the promotion of livelihoods of the workers engaged in the unorganised sector. Once this is in place, it shall equally apply to the street vendors.

## **7. Action Plans for Stateholders**

- (i) It shall be the responsibility of the Government of India to take steps to ensure that street vending activities are carried out in accordance with street vending laws and the same are not actionable under the Indian Penal Code or the Police Act. In this regard, the Government may initiate amendments in these laws if necessary. It may develop a model law to facilitate and regulate street vending in cities and towns.
- (ii) It shall be the responsibility of State Governments/ UT Administrations to ensure that institutional designs, legislative frameworks and other necessary arrangements are put in place in conformity with the National Policy on Urban Street Vendors. They should undertake legislation and frame rules taking into account the model law developed by the Central Government to suit variations in local conditions.
- (iii) It shall be the responsibility of the Local Authority/ Planning Authority/ Regional Planning Authority to provide for reservation of space for vending zones, vendors' markets etc. in master/ development plans, zonal plans and local area plans.

- (iv) The Municipal Authorities shall implement the legislative and other initiatives as indicated in this Policy including provision of space and civic facilities for vendors' markets, assistance to Town Vending committees etc.
- (v) As soon as this Policy comes into force, but not later than one year from the announcement, each Municipal Authority shall constitute a Town Vending Committee and the latter will prepare an action plan for the implementation of the National Policy on Street Vendors at the local level.
- (vi) It shall be the responsibility of the concerned Department of State Government / Municipal Authority to initiate surveys to build up a robust data base and information system pertaining to street vendors in cities and towns and update the same regularly.
- (vii) The State Government and Municipal Authorities shall support professional institutions and organisations to undertake surveys and projects aimed at improving the conditions of street vendors as well as planning and implementation of promotional measures for them in their respective areas.
- (viii) The Central Government shall assist such professional institutions and organizations which come forward to study the problems of street vendors and offer realistic solutions to address such problems.

### **8. Monitoring & review**

Monitoring of street vending activities, action plans and promotional measures for street vendors in accordance with this Policy will be carried on at the following levels:

(a) Town Vending Committee:

As elaborated earlier, the TVC will be responsible for monitoring the implementation of this Policy at the city/ town/ ward/ locality levels.

(b) Chief Executive Officer/ Commissioner of Municipal Authority:

The Chief Executive Officer/ Commissioner of each Municipal Authority shall maintain a register containing ward-wise list of registered street vendors (stationary/ mobile) exhibited in municipal web site. The Municipal authority would continuously monitor the functioning and activities of the TVC and ward vending committees ( wherever set up) and shall send an annual report on the same to the State Nodal Officer and Secretary of the concerned Department of the State Government containing the following details:

- (i) Number of vending zones/ vendors markets earmarked / developed;
- (ii) Number of registered street vendors;
- (iii) Revenue collected;
- (iv) Expenditure incurred,
- (v) Complaints registered and redressed; and
- (vi) Any other matter as prescribed by the State Nodal Officer/ Concerned Department of State Government.

(c) State/ UT Nodal Officer:

The Secretary of the concerned Department or State/ UT Nodal Officer designated shall send an annual report to the Ministry of Housing & Urban Poverty Alleviation in the Central government containing relevant statistics on street vendors for cities/ towns, number of vending zones earmarked/ developed, number of registered street vendors, number provided with vending spaces, details of TVC and conditions of street vendors in the State.

## **9. Dispute Resolution**

The TVC shall be primarily responsible for the redressal of grievances and resolution of any dispute arising amongst the street vendors or between the street vendors and third parties including municipal officials and the police in the implementation of this Policy. It shall closely work with planning, municipal, police and other authorities and vendors' associations and other organizations to ensure that the National Policy on Urban Street Vendors is implemented effectively at the local level.

**6.3** Regarding National Policy on Urban Street Vendors, 2009 Hon'ble Supreme Court in **Gainda Ram and others V. Municipal Corporation of Delhi and others, (2010) 10 SCC 715** has observed as follows:-

"61. Subsequent to the 2004 Policy a new National Policy on Urban Street Vendors, 2009 (hereinafter "the 2009 Policy") was framed on 17.06.2009. The most important part of 2009 Policy is that it recognizes street vending as an integral and legitimate part of urban retail trade and distribution system, even when otherwise street vending is sometimes projected as a major menace in urban areas aggravating traffic problems. But 2009 Policy aims at giving the street vendors a legal status by providing them legitimate vending and hawking zones in the city in the town master plans and development plans.

**62.** The National Policy, therefore, directs " Municipal Authorities should frame necessary rules for regulating entry of street vendors on a time sharing basis in designated vending zones keeping in view three broad categories registered vendors who have secured a licence for a specified site/ stall; registered mobile street vendors visiting one or the other vending zone.

63. The 2009 Policy, therefore, seeks to institutionalize a part of the Urban Street Vending through legislation....."

**6.4.** Therefore, State legislation on street vendors is necessary. The Hon'ble supreme Court in Gaiinda Ram case (supra) has highlighted the need for law and has directed the appropriate government to enact a legislature for regulation of fundamental rights of street vendors by Jun 30, 2011. So far no such legislation has been enacted by Parliament or State Legislature.

**6.5** The legal status of hawkers and vendors needs to be changed is evident. However, what needs to be done to achieve this change is a moot point. There seems to be no well defined legal strategy to achieve this.

## **CHAPTER- VII**

### **MODEL STREET VENDORS, BILL, 2009**

**7.1** National policies on Urban Street Vending, 2004 and 2009 recognize that each State has its own municipal and police laws. Under these policies it was the responsibility of the State to give institutional design and legislative framework through legislation as well as to implement the policy. Unfortunately, even when policy is accepted it is rarely implemented. Therefore, the Government of India, Ministry of Housing and urban Poverty alleviation has proposed the Model Street Vendors ( Protection of Livelihood and Regulation of Street Vending) Bill, 2009. Various provisions of the Model Bill, 2009 are as follows:

### **7.2 THE STREET VENDORS ( PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) BILL, 2009**

to provide for protection of livelihood of urban street vendors and to regulate street vending and for matters connected therewith or incidental thereto.

Be it enacted by Parliament/ legislative Assembly of the state of ----- (Name of the state) in the Fifty- ninth year of the Republic of India as follows: -

## **CHAPTER- I**

### **PRELIMINARY**

#### **1. Short title, Extent and Commencement.**

- (1) This Act may be called the Street Vendors ( Protection of Livelihood and Regulation of Street Vending ) Act, 2009.
- (2) It extends to the whole of the State/ Union territory.....  
(name of the state/ Union territory).

- (3) it shall come into force on such date as the central. State Government may, by notification in the Official Gazette, appoint.
- (4) The provisions of this Act shall not apply to the land, premises and trains owned and controlled by the railway.

## 2. Definitions.

(1) In this Act, unless the context otherwise requires,-

(a) "**appropriate Government**" means,-

- (i) in relation to the lands owned or controlled by the Central government, the Central Government;
- (ii) in relation to the lands owned or controlled by the state Government, ( name of the state), the State Government;
- (iii) in relation to the lands owned or controlled by the Union territory, ( name of Union territory administration), the union territory Administration;

(b) "**holding capacity**" means the maximum number of street vendors who can be accommodated in any vending zone.

(c) "**local authority**" means a Municipal Corporation or a Municipal Council or a Nagar Panchayat, by whatever name called, or the Cantonment Board, or as the case may be, a civil area committee appointed under Section 47 of the Cantonment Act, 2006 or such other body legally entitled to function as a local authority in any city or town to provide civic services and regulate street vending, and includes the " planning authority " which regulates the land use in that city or town;

- (d) "**notification**" means a notification published in the Official gazette;
- (e) "**planning authority**" means a Urban Development Authority or any other authority in any city or town designated by the appropriate government as responsible for regulating the land use by defining the precise extent of areas for any particular activity in the master plan or development plan or zonal plan or layout plan or any other spatial plan which is legally enforceable under the applicable town and country planning Act or the urban Development Act or the Municipal Act;
- (f) "**prescribed**" means prescribed by rules made under this Act by the appropriate Government;
- (g) "**Scheme**" means a scheme framed by the appropriate Government under section 3;
- (h) "**specified**" means as specified by the scheme;
- (i) "**State nodal office**" means an officer designated by the State / Union Territory Government to co-ordinate all matters relating to urban street vending in the state/ Union Territory;
- (j) "**street vendor**" means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public part or any other public place or private area or from a temporary built up structure or by moving from place to place and includes hawker, peddler, squatter and all other synonymous terms which may be local

or region specific; and the words " street vending" with their grammatical variations and cognate expressions, shall be construed accordingly;

(k) " **town vending committee**" means the body constituted by the appropriate government under section 4;

(l) " **vending zone**" means an area or place or a location designated as such by the planning authority for the specific use by street vendors for street vending and includes footpath, sidewalk, pavement, embankment, portions of a street, waiting area for public or any such place considered suitable for vending activities and providing services to the general public.

(2) Any reference in this Act to any enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

## **CHAPTER-II**

### **SCHEME FOR STREET VENDING**

#### **3. Scheme for street Vendors**

(1) For the purposes of this Act, the appropriate Government shall frame, by notification, a scheme which may specify all or any of the following matters, namely:-

(a) the form and manner of grant, renewal, suspension or cancellation of a registration certificate for, and issue of identity card to, the street vendors;

- (b) The manner or levy and collection of fees for the grant and renewal of a registration certificate and fines for contravention of the term and conditions of a registration and other provisions of this Act;
- (c) The form and manner of filing appeals to, and procedure for disposal of appeals by , the local authority in respect of registration of street vendors;
- (d) The manner of, and the terms and conditions of, allotment of stalls to the registered street vendors;
- (e) The form and manner of grant, renewal, suspension or cancellation of a license;
- (f) The manner of levy and collection of fees for the grant and renewal of a license and fines for contravention of the terms and conditions of the license;
- (g) the norms of spatial planning to be adopted by the planning authority for earmarking vending zones for street vendors in the master plan, development plan, zonal plan, layout plan or any other spatial plans;
- (h) The principles for determination of vending zones as restriction free-vending zones, restricted- vending zones and no-vending zones;
- (i) the conditions under which private places may be designated as restriction- free- vending zones, restricted- vending zones and no-vending zones;
- (j) the principles for determining holding capacity of vending zones and the manner of undertaking comprehensive digitalized photo census and survey of the existing number of street vendors with the assistance of

- experts for the purpose of accommodating street vendors within the holding capacity of the vending zones;
- (k) the terms and conditions for street vending including norms to be observed for upkeeping public health and hygiene;
  - (l) the designation of State Nodal Officer for co-ordination of all matters relating to street vending at the state level;
  - (m) the manner of maintenance of proper records and other documents by the town vending committee, local authority, planning authority and State Nodal Officer in respect of street vendors;
  - (n) the manner of giving notice to, and eviction of, street vendors; impounding, destruction or seizure of stalls, goods and equipments and relocation of, and compensation payable to evicted street vendors;
  - (o) any other particulars which may be considered by the appropriate government as proper of including in the scheme;
- (2) A summary of the scheme notified by the appropriate Government under sub-section (1) shall be published by the local authority in at least two local news papers in such manner as may be prescribed.

### **CHAPTER -III**

#### **TOWN VENDING COMMITTEE**

##### **4. Town Vending ' committee**

- (1) The appropriate Government shall, in each local authority, constitute a town vending committee.

(2) Each town vending committee shall consist of-

(a) The Municipal Commissioner or the Chief Officer, as the case may be, who shall be the Chairperson; and

(b) such number of other members as may be prescribed, to be nominated by the appropriate Government, representing the local authority, the planning authority, traffic police, local police, associations, resident welfare associations, nationalized banks and such other interests as it deems proper;

Provided that the number of members nominated to represent the street vendors shall not be less than forty percent of the total number of members and one-third of such members shall be from amongst women vendors;

Provided further that reasonable representation shall also be given to persons who are physically challenged.

(3) The Chairperson and the members nominated under clause (b) of sub-section (2) shall, receive such allowances as may be prescribed by the appropriate Government.

(4) The Chairperson or the member nominated under clause (b) of sub-section (2) shall, unless his nomination is terminated earlier by the appropriate Government, hold office for a term of three years from the date of his nomination.

**5. Meeting of town vending committee.**

The town vending committee shall meet at such times and places within the jurisdiction of the local authority and shall observe such rules of procedure in regard to the transaction of business at its meetings, and in discharge of its functions, as may be prescribed.

**6. Temporary association of persons with town vending committee for particular purposes.**

(1) The town vending committee may associate with itself, in such manner and for such purposes as may be prescribed, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) A person so associated under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the committee and shall not be a member for any other purpose.

(3) The person so associated under sub-section (1) shall be paid such allowances as may be prescribed.

**7. Office space & other employee for town vending committee.**

The appropriate Government shall provide the town vending committee with appropriate office space and such other employees as may be prescribed.

**8. Constitution of ward vending committees.**

The town vending committee may constitute, in such manner and for such purposes, such number of ward vending committees, as may be prescribed.

**9. Function of town vending committee.**

The appropriate Government may assign, to the town vending committee, the following functions, namely:-

- (a) Grant, renew, suspend or cancel registration certificates to street vendors, in such form and manner, and on such terms and conditions, as may be specified;
- (b) Issue to the street vendors identity cards in such form and manner as may be specified;
- (c) Collect such fee for registration or renewal of registration of street vendors as may be specified;
- (d) Determine the manner of collecting fees through banks, counters of local authority or counters of town vending committee, fee for registration, usage of parking space for mobile stalls and availing of civic services, in consultation with local authority;
- (e) Identify and designate vending zones;
- (f) Specify timings for vending in vending zones;
- (g) Maintain the records of land, street, footpath, embankment, waiting area, parks and other public places designated for vending in such manner as may be specified;
- (h) conduct periodic surveys of vending zones;
- (i) Collect and maintain data regarding street vendors;
- (j) Determine quantitative norms for different categories of stationary and mobile stalls in the vending zones;
- (k) Assess and determine maximum holding capacity for each vending zone;

- (l) identify and declare vending zones as restriction - free- vending zones, restricted- vending zones in the manner specified;
- (m) fix sign boards at each vending zone to indicate kind of vending zone, its boundaries and vending timings;
- (n) declare place and timings of vendors markets for weekly haats, night bazaars, holiday bazaars and festival bazaars;
- (o) ensure adequacy of civic amenities, including water, sanitation, waste management, electricity, provided in the vending zones;
- (p) monitor activities of street vendors;
- (q) ensure that the quality of products and services provided to the public and public health, hygiene and safety standards as pecified by the local authority are maintained;
- (r) ensure that allotted stalls are utilized by the allottees in accordance with the terms and conditions specified;
- (s) specify the terms and conditions for issue, renew, suspension or cancellation of registration in the manner specified;
- (t) determine actions including imposition of fine for violating the terms and conditions for registration;
- (u) promote awareness regarding credit through institutional mechanisms;
- (v) determine norms for regulating the activities of street vendors;

- (w) determine terms and conditions for providing benefits of insurance, maternity benefits, old age pension and other social security schemes to the street vendors in case of death, illness or disability;
- (x) lay down guidelines for organizing associations and self help groups of street vendors;
- (y) conduct training programmes for street vendors with a view to enlighten them with entrepreneurship and technical and business skills;
- (z) redress grievances and resolve disputes amongst the street vendors;

**(10) Publication of annual accounts statement**

The town vending committee shall prepare and publish its annual accounts statement in such form and manner as may be prescribed.

## **CHAPTER- IV**

### **REGISTRATION OF STREET VENDORS**

**(11) Application for registration.**

(1) Every person who has completed the age of 18 years and intends to do street vending shall make an application for registration as street vendor to the town vending committee.

(2) Every application under sub-section (1) shall be made in such form and manner and accompanied by such fee as may be specified.

**(12) Registration of street vendors**

(1) An application made under sub-section (1) shall be examined by the town vending committee and the registration made within such period and in such manner, as may be specified:

Provided that on completion of specified period, if no response is received by the applicant about rejection or deficiencies in the application, the applicant shall be deemed to have been registered.

(2) The town vending committee shall not summarily reject the application without giving the applicant an opportunity to rectify deficiencies, if any and hearing him.

(3) If the town vending committee or the officer authorized by town vending committee, as the case may be, is satisfied that the application is in compliance with the provisions of this Act and the rules or schemes made thereunder, he shall register the name of the street vendor.

(4) Any person aggrieved by the decision of the town vending committee under sub-section (3) may, prefer an appeal to the local authority within such period, and in such manner, as may be specified.

**(12) Registration of street vendors.**

(1) The local authority may give preference to the registered street vendors in allotment of stalls in the vending zones.

(2) The allotment of stalls to the street vendors shall be made in such manner, and subject to such terms and conditions, as may be specified .

**14. Grant of Licence**

A registered street vendor to whom a stall has been allotted in a vending zone shall be granted a licence and renewed from time to time by the local authority, in such manner, on payment of such fee, and subject to such terms and conditions, as may be specified.

**CHAPTER- V**  
**DUTIES OF LOCAL AUTHORITY**

**15. Duties of local authority.**

Notwithstanding anything contained in any other law for the time being in force, the local authority shall be responsible for:-

- (a) Overall supervision and monitoring of the Scheme for street vendors;
- (b) Monitoring effective functioning of the town vending committee;
- (c) Deciding appeals in respect of registration of street vendors in the manner specified;
- (d) Allotting stalls to the street vendors in the manner specified;
- (e) Granting, renewal, suspension or cancellation of licence to the registered street vendors in the manner specified;
- (f) Providing in consultation with the town vending committee, in the vending zones and to the street vendors, civic services, including:-
  - (i) Solid waste disposal,
  - (ii) Public toilets to maintain cleanliness,

- (iii) Electricity,
  - (iv) Drinking water,
  - (v) Shelter to protect street vendors and their wares,
  - (vi) storage facilities, beautification, placement of signage and,
  - (vii) Other facilities as may be needed by the street vendors and specified in the scheme;
- (g) determining, in consultation with the town vending committee, the manner of collecting, through banks, counters of local authority and counters of town vending committee, fee for registration, use of parking space for mobile stalls and availing of civic services;
- (h) Undertake, in consultation with the town vending committee, comprehensive digitalized photo census and survey of the existing number of street vendors with the assistance of such experts and in such manner as may be specified, for the purpose of accommodating street vendors within the holding capacity of the vending zones;
- (i) Notify the entire database of street vendors on its website and update the same at regular intervals.

## **CHAPTER- VI**

### **DUTIES OF PLANNING AUTHORITY**

#### **16. Duties of planning authority.**

Notwithstanding anything contained in any other law for the time being in force, the planning authority shall be responsible for-

- (a) Determining spatial planning norms for street vending;

- (b) earmark space for vending zones in the master plan, development plan, zonal plan, layout plan and any other plan;
- (c) monitor the functioning of the town vending committee with regard to the planning norms;
- (d) amend the city or town master plan, development plan, zonal plan, layout plan and any other plan for accommodating street vendors in the designated vending zones;
- (e) demarcate vending zones specific to the requirements of the town or city;
- (f) make spatial plans conducive and adequate for the prevalent number of street vendors in that city or town and also for the future growth, by adopting such norms as may be specified.
- (g) Discharge any other duty or duties which may be assigned to it by the appropriate Government from time to time.

## **CHAPTER- VII**

### **BREACHES OF CONDITIONS AND PENALTY**

#### **17. Cancellation or suspension of registration.**

Where any street vendor who has been registered under this Act or his agent or servant of commits breach of any of the conditions thereof or any other terms and conditions specified for the purpose of regulating street vending under under this Act or any rules or schemes made thereunder, or where the town vending committee is satisfied that such registration has been secured by the street vendor through misrepresentation or fraud, the town vending committee may, without prejudice to any other fine which may have been incurred by the street vendor under this Act, cancel the registration or suspend the same for such period as it thinks fit:

Provided that no such cancellation or suspension shall be made by the town vending committee unless and opportunity of hearing has been given to the street vendor.

**18. Cancellation or suspension of allotment of stall, licence etc.**

Where any street vendor to whom a stall has been allotted or a licence has been granted under this Act or any agent or servant of such vendor commits a breach of any of the conditions thereof, or any other terms and conditions specified for the purpose of regulating street vending under this Act any rules or schemes made thereunder, or where the local authority is satisfied that such allotment of stall or licence, as the case may be, has been secured by the street vendor through misrepresentation or fraud, the local authority may, without prejudice to any other fine which may have been incurred by the street vendor under this Act, cancel the allotment of stall or licence, as the case may be, or suspend the same for such period as it thinks fit:

Provided that no such cancellation or suspension shall be made by the local authority unless an opportunity or hearing has been given to the street vendor.

**19. Penalty for contraventions.**

If any street vendor-

- (a) indulges in street vending without registration;
- (b) Vends beyond the designated vending zones or specified timings;
- (c) Vends goods or offers services that are detrimental to public health;

- (d) Contravenes the terms and conditions of registration;
- (e) Contravenes the terms and conditions of allotment of stall or licence; or
- (f) Contravenes any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made hereunder, he shall be liable to a penalty which shall not be less than rupees two hundred but which may extend to rupees five hundred, as may be determined by the town vending committee, or as the case may be, by the local authority.

## **CHAPTER- VIII**

### **MISCELANEOUS**

#### **20. Returns.**

Every town vending committee shall furnish, from time to time, to the appropriate Government and the local authority such returns as may be prescribed.

#### **21. Promotional measures.**

The appropriate Government may, in consultation with the town vending committee, local authority, planning authority and street vendors associations or unions, undertake promotional measures of making available credit, insurance and other welfare schemes of social security for the street vendors.

#### **22. Research, training and awareness.**

The appropriate government may, to the extent of availability of financial and other resources,-

- (a) Develop and organize capacity building programmes for street vendors and on how to exercise the rights contemplated under this Act;
- (b) Undertake research, education and training programmes to advance knowledge and understanding of the role of the informal sector in the economy, in general and the street vendors, in particular and to raise awareness among the public through town vending committees.

### **23. Power to make bye-laws.**

Subject to the provisions of this Act or any Rules or scheme made there under, the local authority may make bye-laws to provide for all or any of the following matters, namely:-

- (a) The regulation and manner of vending in restriction- free-vending zones, restricted- vending zones and designated vending zones;
- (b) The regulation of the collection of taxes and fees in the vending zones;
- (c) Regulation of traffic in the vending zones;
- (d) The regulation of the quality of products and services provided to the public in vending zones and maintenance of public health, hygiene and safety standards;
- (e) The regulation of civic services in the vending zones; and
- (f) The regulation of such other matters in the vending zones as may be necessary.

**24. Power to make Rules.**

(1) The appropriate Government any, after consultation with the town vending committee, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the manner of publishing summary of scheme under sub-section (2) of section 3;
- (b) the number of members under clause (b) of sub-section (2) of section 4;
- (c) the allowances to Chairperson and members under sub-section (3) of section 4;
- (d) the time and place for meeting, procedure for transaction of business at meetings and functions to be discharged under section 5;
- (e) the manner and purpose for which a person may be associated under sub-section (1) of section 6;
- (f) the allowance to associated person under sub-section (3) of section 6;
- (g) the other employees of town vending committee under section 7;
- (h) the manner and purposes for constituting, and the number of the ward vending committees under section 8;
- (i) the form and manner for preparing and publishing annual accounts statement under section 10;
- (j) the returns to be filed under section 20.

(3) Every rule, scheme and bye-law made under this Act shall be laid, as soon as may be after it is made, before the house of Parliament/ State Legislature, while it is in the session, for total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or scheme or bye-law or both Houses agree that the rule or scheme or bye-law should not be made, the rule or scheme or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or scheme or bye-law.

**7.3 Regarding Model Bill, 2009 Hon'ble Supreme Court in *gainda Ram case ( supra)* has observed as under:**

"66. There is a bill called a Model Street Vendors ( Protection of Livelihood and Regulation of Street vending ) Bill, 2009 by the Government of India, Ministry of Housing and Urban Poverty Alleviation. From the preamble and the long title of the Bill it appears that the bill is to provide for protection of livelihood of urban street vendors and to regulate street vending and for matters connected therewith. Now if the said Bill is enacted in the present form, the Bill then prima facie recognizes the rights of hawkers and vendors under Article 21 of the Constitution since it seeks to protect their livelihood.

67. In the background of the provisions in the Bill and the 2009 Policy, it is clear that an attempt is made to regulate the fundamental right of street hawking and street vending by law, since it has been declared by this Court that the right to hawk on the streets or right to carry on street vending is part of fundamental right under Article 19(1) (g). However, till the law is made the attempt made by NDMC and MCD to regulate this right by framing schemes which are not statutory in nature is not exactly within the contemplation of constitutional provision discussed above. However, such schemes have been regulated from time to time by this Court for several years, years as pointed out above. Even, orders passed by this Court, in trying to regulate such hawking and street vending, is not law either. At the same time, there is not denying the fact that hawking and street vending should be regulated by law. Such a law is imminently necessary in public interest."

7.4 Under these circumstances we are of the opinion that to regulate the fundamental rights of street hawking and street vending law is imminently necessary in public interest. Therefore, legislature of State of U.p. should enact a State Legislation to provide for protection of livelihood of Urban Street Vendors and to regulate street vending in terms of Model Draft Bill Annexure-I, which is more exhaustive.

**8.1** In view of the discussion under the preceding Chapters and having regards to the various pronouncements of the Hon'ble Supreme Court and High Courts, particularly judgments of **Hon'ble Supreme Court** in **Sodan Singh case ( supra)** and Gainda Ram case ( supra), and various other judgments referred earlier, wherein certain directions have been issued regarding proper legislation for street vendors/ hawkers/ squatters. We are of the opinion that Legislature of State should enact a law in terms of proposed **Draft Bill (annexure-I)** to provide for protection of livelihood of urban street vendors and to regulate street vending.

**8.2** The proposed Draft Bill, will regulate urban street markets of the State of Uttar Pradesh. Street Vendors play important role in the local economy but still they are illegal so far, the Bill gives them legal identity. They are self employed poor who contribute significantly to convenience of common citizens by providing goods and services at our doorsteps. It will be a historic development for poor in state of U.P. The proposed Bill will prove to be a milestone in getting the legal recognition to millions of poor street vendors of the State. It will also curb unauthorised vending activities and would also look after the livelihood issues of vendors. Basically it would be an effort to regulate the vending trade and at the same time to ensure easy accessibility for citizen.

**8.3** The street vendors are always a target of the enforcement authorities both police and civic. The proposed Draft Bill recognises the Significance of the street vendors, who operate in an unorganised sector, and endorses credit linkage for them. Since such vendors have a little or no credit from the formal financial institutions for their economic activities, they fall back on private moneylenders and seek finance at higher rates. Nationalised banks should be encouraged to extend support through self-help groups.

**8.4** The Bill, which aims to promote sustainable urban growth by giving the vendors a space in the urban areas, is also looking at introduction of a registration system for them.

**8.5** Forcible evictions of street vendors are no new since it happens with alarming regularity. One of the main activities of National Association of Street Vendors of India, is its campaign against this unlawful eviction of street vendors. The fact that Supreme Court of India has observed that hawking is legal in consonance with the fundamental rights under Article 10 (10 (g), of the constitution, now right to vending becomes a human rights issue. That's why under a regulated atmosphere, mechanism of eviction is an important factor. Eviction without prior notice is legally inadmissible. The skeptics argue that regulation will lead to a situation wherein the street vendors would be deprived of their livelihoods. On the other hand, unregulated vending is most likely to perpetuate these atrocities against the vendors. However, the skeptics overemphasize the regulation part and partially ignore the legal protection envisaged under the proposed act. But the apprehension about section 283 and 431 of the IPC and Section 34 of Police Act and certain provisions of Municipal laws as Stated

earlier under Chapter-III of the Report seem quite genuine and unless suitable amendments are brought in, it would be difficult to deal with the menace of forcible eviction and the resultant corruption. Moreover, it can save the poor street vendors a big chunk of their income which sometimes goes towards bribing the police and the other officials under the compulsion of carrying out their trade. The national policy on street vending highlights the need for registration and payment of nominal fee by each vendor to the urban local bodies under the hope that they will drive away the evil practice of corruption that has reduced the life of street vendors to permanent misery.

**8.6** If Legislature of State enacted a law in terms of Draft Bill annexure- I which provides legalization of street vending activities it will be welcome step since the banning of hawking will not help as learnt from the experiences of many countries. In contrast, legitimizing and regulating vending seems like a much better proposition. It also upholds the spirit of constitution as expressed in the directive principles of state policy, Article 39 (a) that makes a strong case for right to livelihood in our country. However, the law can only provide a broad framework to protect and regulate street vendors whereas much depends on the urban Local Body and Town Vending Committee to deal with challenge and situations at the time of implementation. Under a supportive atmosphere, the street vendors are not only expected to provide goods and services at cheaper and affordable prices but also to bring new standards in quality control. Legal protection, self- regulation and improved financial conditions might together ensure better quality control in street vending in the State.

**8.7** Cities face multiple pressures and different actors and factors pull the cities in different directions in which the poor and marginalized suffer. Street vendors, the eyesore of elites, are today facing the maximum brunt. More importantly, the poor cannot live in cities without livelihood. Livelihood has to be focused.

**8.8** A Policy on vendors has been first floated way back in 2004 and thereafter in 2009. In 2009 the Government of India had also floated a Model Street Vendors ( Protection of Livelihood and Regulation of Street Vending ) Bill. The idea was that State would, based on this Bill, formulate their own laws. But the response so far has been lukewarm. Some of States are in process of coming up with laws. Since there has been no response by the State of Uttar Pradesh so far, it is time the State legislature should enact such law to regulate the street vendors.

**8.9** Sudden traffic snarls, encroachment of pavements and roads and unruly soliciting should be a matter of past, once the legislature of state enacted a law like the proposed Draft Bill ( Annexure- I) and the provisions of the Draft Bill are implemented.

**8.10** The Model Bill- 2009 which has been recommended by the Government of India, Ministry of Housing and Urban Poverty Alleviation to States for enacting legislation falls short of the aspirations of the street vendors. It does not even reflect the principles set out in the national Policies. Several issues which need to be addressed through proposed law has been discussed below.

## 8.11 National Markets

**8.11.1** The National Policy on Urban Street Vendors, 2009 includes the principles of the natural market. It defines the term "natural market" as follows:

Definition of Natural Market- " 2.5 Natural Markets means a market where sellers and buyers have traditionally congregated for more than a specified period for the sale and purchase of a given set of products or services as assessed by the local authority.

4.2- following guidelines would need to be adhered to Spatial planning should take into account the natural propensity of street vendors to locate in certain places and certain times in response to the patterns of demand for their goods and services.

4.3 .....Principles of " natural market" should be followed in designating areas as Vending Zones and their maximum holding capacity should be determined based on these principles.

**8.11.2** The Phenomenon of natural markets occurs throughout the world and is "natural" in that vendors logically choose sites where demand for their goods is high. The Supreme Court of India has also agreed in principle to the Idea of accommodating natural markets. In **Sudhir Madan v. Municipal Corporation Delhi and others, ( 2009) 17 SCC 597** (17.05.2007) the Hon'ble Supreme Court has stated:

" It was further submitted before us that the authorities must have due regard to the concept of a natural market. We agree. In implementing such schemes, the authorities cannot ignore the concept of a natural market, but many interests have to be balanced so as to cause least inconvenience to the public at large."

**8.11.3** empirical evidence suggests that urban planning which attempts to ignore natural markets ultimately fails to protect either the right of street vendors to do their business or the right of commuters to move freely through public space. This is because the failure to accommodate natural markets in the regulatory framework does not effectively prevent these markets from forming and the situation becomes one where the vendors remain illegal and the consumers are inconvenienced.

**8.11.4** Forcing street vendors out of natural markets, by contrast, would block efficient economic transactions and leads to economic waste. Allowing for natural markets, not only maximizes the productivity of street vendors themselves, but also of their consumers. The individual consumer benefits greatly from the presence of street vendors in natural markets. But in addition, the convenience that natural markets provide to individual consumers translates, in the aggregate, to greater overall efficiency from the macroeconomic standpoint.

**8.11.5** Model Street vendors ( Protection of Livelihood and Regulation of Street Vending) Bill- 2009 proposed by the government of India, Ministry of Housing and urban Poverty Alleviation has excluded " Natural Markets".

**8.11.6** We propose that the principles of natural markets should be the focal point while determining the vending zone, weekly markets and holding capacity.

**8.11.7** According to proposed Draft Bill ( Annexure-I) Definition of Natural Market- " 2 (f) natural market" means a market where sellers and buyers have traditionally congregatd for a specified period for the sel and purchase of a given set of products or service as specified by the Local Authority;

8(2) The Town Vending committee shall identify, recognize and regularize the existing natural markets by carrying out the mapping exercise and by preparing the schematic plans for the same.

8(3) The criteria for weekly markets- (vi) principles of natural market.

**8.12 The Law should prescribe minimum quantitative norms i.e. Numbers of street vendors to be accommodated and percentage of public land which should be allocated for street vending.**

**8.12.1** The aim of this Act should be to preserve existing employment and livelihoods and provide opportunities for the future growth of employment in the growing cities, while protecting the interests of the general public. The principle of natural markets combined with minimum quantitative norms shows us the way to do this.

**8.12.2 National Policy- 2004** - "Quantitative Norms refer to the norms on amount of space to be provided for vendors' markets. At the town / city level enough space should be designated for vendors' markets atleast to the extent of 2% to 2.5% of the total city population.

**8.12.3 National Policy on Street Vendors - 2009-** " Street vendor form a very important segment of the unorganized sector in the country. It is estimated that in several cities street vendors count for about 2 percent of population.

4.3 There is a need to fix state norms at both city/ zonal development plan and local layout plan levels. each city/ town may, however evolve its own quantitative norms but only after conducting proper surveys and evaluationg actual needs and taking the help of professional institutions/ agencies. The principles of natural markets should be followed in designating areas as vending zones and their maximum holding capacity should be determined based on this principle."

**8.12.4 The proposed Model Bill- 2009 on street vendors**, excludes mention of quantitative norms. The Model bill does not set out any principle in this regard. It does not even reflect the recommendations of the National Policies. It reads " The norms for spatial planning, principles for determination of vending zones/ no vending zones, the principles for determining holding capacity shall be notified in a scheme to be notified by appropriate government. [ sec 3 (1) g-j]"

**8.12.5** We propose that there should be quantitative norms for numbers of street vendors accommodated ( 2% of population) and guidelines for earmarking norms of spatial planning. Public place should be defined under the law in the lines of Municipal Acts. Therefore, the proposed **Draft Bill (Annexure-I)** provides:

**2(h)** " public place" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not and it includes public streets vested in the Local Authority or any other authority so empowered under the law.

**3.1** State government shall frame a scheme which will provide for:

(d) the norms of spatial planning to be adopted by the planning authority for earmarking adequate space for street vendors in the master plan, zonal development plan, layout plans and other plans.

Provided that the amount of space so allocated shall be sufficient to accommodate all existing street vendors and it shall not be less than 2% of the public place.

### **8.13 Dispute Redressal Mechanism**

**8.13.1** The Model Bill, 2009 of Government of India contemplates that the disputes among the street vendors will be resolved by the Zonal vending Committee. It provides for appeal to Local authority to resolve the dispute relating to registration. There is a need to establish two tier Dispute Redressal Mechanism (in the line of Consumer Protection Act) to resolve the dispute arising out the decisions of the Town Vending Committee with respect to Street Vending. There should be a judicial body (separate from administrative function) which can decide the disputes and look into the implementation of the schemes and other provisions of the Act. It will also supervise and check inaction and non implementation of the schemes. The vendors will have no remedy otherwise, in case the provisions are not implemented properly. This is also in the line of the direction of the Supreme Court of India which has directed that the Zonal Vending Committee in Delhi (formed under the schemes of MCD and NDMC) will be presided over by a Judicial Officer. It has also been directed to establish an Appellate Authority presided by a Retd. High Court Judge to hear appeal arising out of the decisions of the Town Vending Committee. Experiences with street vendors have found that a separate judicial body provides quick and satisfactory resolution of disputes.

Very often the cost of litigation exceeds the loss suffered by them. They being marginalized and being poor they can not approach good lawyers. In absence of a separate Judicial mechanism to resolve the disputes street vendors usually approach high Courts and the Supreme Court. These writ courts have time and again expressed their limitation in resolving these micro disputes. (**Gainda Ram V. MCD and others, (2010) 10 SCC 715 para 69**).

**8.13.2 National Policy - 2009-** " 9. Dispute resolution- The TVC shall be primarily responsible for the redressal of grievances and resolution of any dispute arising amongst the street vendors or between the street vendors and third parties including municipal officials and the Police in the implementation of this Policy. It shall closely work with planning, municipal, police and other authorities and vendor associations and other organizations to ensure that national Policy on Urban Street vendors is implemented effectively at the local level."

**8.13.3 Proposed Draft Bill ( Annexure-I)** provides that there should be a Town Vending Dispute Redressal Forum for each Town Vending Committee. The forum will be a 3 members body which will be headed by a judicial officer. A state level appellate authority has also been contemplated which shall be presided over by a retd. Judge of the High Court, as provided under clauses 9, 10 and 12 of the Draft Bill.

#### **8.14 Transparency Provisions:**

**8.14.1** Certain transparency provisions need to be incorporated which would set out the procedure for:

(a) Appointment of the members (representing street vendors) of Town Vending Committee;

- (b) Procedure for deciding holding capacity;
- (c) Procedure for demarcating vending zones and no vending zones;

**8.14.2** These provisions are required to ensure actual representation of street vendors in the town Vending committees. It also aims at preventing undue litigation which may arise out of decision on the holding capacity and vending/ no vending zones. These provisions are required to check corrupt practices also.

**8.14.3** No such provision has been referred in the **Model Bill- 2009** neither there has been any discussion on the issue in the **National Polcies.**

**8.14.4** We propose that there is a need of detailed provisions for eligibility of vendors' representation in the Zonal Vending committee. Detailed procedure of deciding the holding capacity and the vending/ no vending zones have also been prescribed under chapter V of the Draft Bill Annexure-I.

### **8.15 Procedure for confiscation of goods and evacuation of Street Vendors:**

**8.15.1** No procedur for evacuation and confiscation of goods of Street Vendors is prescribed under the Model Bill, 2009. Provisions are needed for notice and procedure of evacuation of Street Vendors in case they violate the provisions of th law. Most of the existing Municipal Laws authorizes confiscation and evacuation of unauthorized street vendors but none of them prescribe any procedure for such confiscation and evacuation. Shops and markets have been seen being demolished without serving any notice. Generally, due to unavailability of due procedure the street vendors face tremendous harassment by Plice and Local body officials. The absence of such procedure facilitates

extortion and threatening by authorities. Street vendors suffer heavy loss due to such irregularities.

**8.15.2 National Policy- 2004-** The policy suggests appropriate procedure.

" 4. Relocation and Rehabilitation- Street vendors are most vulnerable to forced eviction and denial of basic right to livelihood. It causes severe long-term hardship, impoverishment and other damage including loss of dignity. Therefore, no street vendor should be forcefully evicted. They would be relocated with adequate rehabilitation only where the land is needed for a public purpose of urgent need. Therefore

- (a) Eviction should be avoided wherever feasible unless there is clear and urgent public need in the land in question.
- (b) Where relocation is absolutely necessary, notice of minimum 30 days should be served to the concerned vendors.
- (d) Affected vendors/ representative's involvement in planning and implementation of the rehabilitation project.
- (d) Affected vendors should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms to pre-evicted levels.
- (e) Loss of assets should also be necessarily compensated.
- (f) State machinery must take comprehensive measures to check and control the practice of forced evictions.

No hawker/ street vendor should be arbitrarily evicted in the name of ' beautification' of the cityspace. The beautification and clean up programmes undertaken by the states or towns should actively involve street vendors in a positive way as a part of the beautification programme."

### **8.15.3 National Policy- 2009**

5.1- There should be a mechanism of due notice to the street vendors. The vendors should be informed / warned by way of notice as the first step before starting the clearing up or relocation process. In the second step, if the space is not cleared even after the notice and imposition of fine, physical eviction may be resorted to. In the case of vending in a no vending zone a notice of at least a few hours should be given to a street vendor in order to enable him or her clear the space occupied. In case of relocation adequate compensation or reservation in allotment of new vending site should be provided to the registered vendors.

5.2- with regard to confiscation of goods ( which should happen only as a last resort rather than routinely), the street vendors shall be entitled to get their goods back within a reasonable time on payment of prescribed fee, determined by TVC.

**8.15.4** Unfortunately, there is no provision of notice of evacuation and procedure of confiscation of goods in the Model Bill, 2009 of Government of India.

**8.15.5** We Propose the procedures for eviction and confiscation as prescribed in clause 23 of the Draft Bill (Annexure-I).

### **8.16 Registration and allocation of spaces for street vendors**

**8.16.1** The two most common types of street vendors are mobile hawkers and street vendors sitting in a market or alongside roads or in designated places. Mobile hawkers earn much less than the stationary ones and aspire to getting a spot or their own. However, mobile hawkers also get harassed and have to pay bribes to police and municipal authorities. Stationary hawkers are seen as encroachers rather than natural marketers. They face the most brutal forms of eviction from the Municipalities and the Police.

**8.16.2** So, for both mobile and stationary vendors there is need of a system of registration for all. Beyond that, allocation of space for the stationary vendors. This system should be started immediately, as it is already mandated by the National Policy, and should be an on- going system to be endorsed as a continuous system in the Act.

**8.16.3 National Policy 2009-** The Policy has well laid-out system of registration of street vendors and allocation of spaces (see attached 4.5.2 and 4.5..4).

**8.16.4 Under Model Bill, 2009 on street vendors-** The Procedure for registration has been recommended but it is not comprehensive enough as the National Policy is.

**8.16.5** We prefer the following system:

1. Identify all natural markets in the city
2. Identify vendors by the process detailed in Draft Bill.
3. Allocate spaces by process detailed in Draft Bill.
4. Plan for future spaces in new areas. There should be scope of registration of new entrants.

**8.17** Regarding adequate footpath space for pedestrians **Hon'ble Supreme Court in Sudhir Madan and others V. Nunicipal Corporation of Delhi and others, (2009) 17 SCC 597** has held that " We direct that no tehbazari/ vending site shall be located on a footpath unless a clear 5 ft space is made available for pedestrians. This should be made clear in the scheme."

**8.18 In sudhir Madan and other V. MCD and others (2007) 15 SCC 497** Hon'ble Apex Court has observed that "-----". To the extent possible space may be made available for squatters/ tehbazari, etc. but not so as to cause inconvenience to the general public. This aspect of the matter should not be forgotten at any time by any of the authorities."

**8.19 Hon'ble Apex Court further observed that in identifying** the sites for squatting / tehbazari zones, width of road and availability of footpath for general public after accommodating squatters, specially to be kept in view.

**8.20 In Municipal Corporation of Delhi v. Gurnam Kaur, (1989) 1 SCC 101,** Hon'ble Supreme Court observed as under:

" We feel that the Municipal Corporation authorities in consultation with the Delhi Development Authority should endeavour to find a solution on the lines as suggested in **Bombay Hawkers' Union ( 1985) 3 SCC 528** i.e. by creating Hawking and Non-Hawking zones and shifting the pavement squatters to areas other than Non-hawking zones. The authorities in devising a scheme must endeavour to achieve a twin object viz., to preserve and maintain the beauty and the grandeur of this great historic city of Delhi from an aesthetic point of view, by reducing congestion on the public streets and removing all encroachments which cause obstruction to the free flow of traffic, and rehabilitate those unfortunate persons who by force of circumstances, are made to ply their trade or business on pavements or public streets."

**8. 21 Hon'ble Supreme Court in Sodan Singh v. NDMC and others, ( 1998) 2 SCC 727** held that " not more than one person from a family to be allotted tehbazari." And further held that "the grant of hawking/ squatting right is not meant for luxurious items or smuggled goods.

**8.22 Hon'ble Supreme Court in Sodan Singh and others v. NDMC and others, ( 1989) 4 SCC 155** has held that " there cannot be a fundamental right of a citizen to occupy a particular place on the pavement where he can squat and engage in trading business. Nor can the hawkers assert a fundamental right to occupy permanently specific places demarcated on the pavement. The ratio of the decisions of the Supreme Court in **Fertilizer Corporation Kamgar Union v. Union of India, (1981) 1 SCC 568** denying the right to a particular post of one's chice and **K. Rajendran v. State of T.N., (1982) 2 SCC 273** which followed it apply with full force to the cases where the right to pursue a trade or business is involved." It is further held that " The hawkers cannot be permitted to squat on every road in the city. Various circumstances, such as narrow road, location of hospital or necessity of security measures etc., will justify refusal to permit any kid of business on a particular road or on all days. Permission to squat on a particular place cannot also be granted on a permanent basis as cirmumstances are likely to change from time to time."

**8.23 Hon'ble Apex Court in Sodan Singh case (supra)** further observed that "Since a citizen has no right to choose a particular place in any street for trading, it is for the State to designate the streets and earmark the places from where street trading can be done. Inaction on the part of the State would result in negating the fundamental right of the citizens. It is expected that the State will do the needful in this respect within a reasonable time failing which it would be left to the courts to protect the rights of the citizens."

**8.24 In Bapujinagar Khudra Byabasai Association v. State of Orissa and others, AIR 1997 Orissa 189, Hon'ble Orissa High Court** held that " though a person has a fundamental right to carry on a trade or business of his choice, he has no fundamental right to insist that he will carry on business or profession from a particular place."

**8.25** Regarding transfer of tehbazari/ vending sites **Hon'ble Apex Court in Patri Vyapar Mandal Delhi (Regd.) V. M.C.D. Town Hall and others (2009) 17 SCC 788** has observed " but, in any case, no transfer made after 06-02-2007 by way of change of hands, sell etc would be allowed and any such transfer, if made, would be illegal." Regarding maintaining a photo census of all the squatters and hawkers with the tehbazari / vending sites **Hon'ble Apex Court** observed that " The photo census shall be compulsory for all future allotment also, if any. MCD shall also maintain proper records of the photo census." So far as the establishment of the weekly markets and giving preference to women vendors are concerned, the

Hon'ble Apex Court observed that " We make it is for the MCD to consider the aforesaid request and to take appropriate decisions in that regard for we do not intend to pass any such order as the same is, in our considered opinion, in the domain of policy decision."

**8.26** We would also like to refer following few cases, where Sri G.P. thareja, who headed the ' Thareja Committee' constituted under the directions of the Hon'ble Apex Court, has decided the eligibility criteria for hawker/ vendor. ( **Sodan Singh v. N.D.M.C. and others (1998) 2 SCc 727**)

**8.26.1 I.A. No. 65, 66: ( Laxmi Narain)** The Thareja Committee, by its order dated 5.1-1995, which run into nearly 10 pages, rejected the case of the petitioner. It was noticed that the applicant;s father Prabhu Dayal had been allotted shop No. 12, Mini Marker, Janpath, in respect of the same site which the applicant has been occupying and hence, the applicant cannot be given any other site.

**8.26.2** Petitioner's case before us is that his father was occupying a place in the middle of Janpath while petitioner was occupying a place at the the corner of Indian Oil Bhawan, near janpath lane.

**8.26.3** The Thareja committee said that the Committee visited the area of Indian Oil Bhawan, during the period, over 100 times. The inspection notes are set out and applicant was never there,.

It was only on 09.09.1994, the applicant was found. Otherwise, only his servants were there. In fact, in the name of the applicant, there is a golegappa shop, choley- bhaturey shop, Alloo-tikki shop, a Bhelpuri shop and dahi-bara shop. In addition, applicant has a shop at B-27 Dak Wali Gali, Shakarpur, Delhi. It was rightly inferred that applicant must have been busy attending to shop No. 12, Mini Market. Janpath of his father while he is running other shops with servants. The committee verified records of the NDMC and from the receipts there, it was informed that applicant was found doing business only at his father's place. We are in agreement with the reasons given by Thareja Committee that the applicant has not made out any case for separate allotment of another site. The application is dismissed.

**8.26.4 I.A. 73: ( Kamla Devi)** The Thareja Committee, on a consideration of the evidence produced, stated that applicant is not a genuine or bonafide squatter and that other persons are working under her name. This was what was revealed even from inspections by the Committee on various dates. We agree with the finding. The I.A. is dismissed.

**8.26.5 I.A. 96: ( Madan Lal) I.A. 97: ( Chander Pal)** These two IAs have been put by the Thareja Committee under the 10% hardship quota. We accept the said recommendation. IAs disposed of accordingly.

**8.26.6 IA 106- 107 : ( Nam Dutt, Hiralal, Sita Ram, Khachera )**

These IAs concern the above said four persons who were petitioner 1,4,6 and 9 in Writ Petition 1348/ 1987 filed earlier in this Court. Their cases were accepted by the Thareja Committee. Their cases for appropriate final allotment will be considered by the Chaturvedi committee. IAs disposed of.

**8.26.7 IAs 108, 109: ( Ramesh Chander)** The Thareja Committee, in its order dated 30.08.1991, found that this applicant is entitled to a stall at Malcha Marg or with seniority from 2.7.1994. Petitioner has since died.

**8.26.8** The Thareja Committee passed an order allowing the applicant's wife, smt. Surema Devi to 'represent' but refused to grant any interim relief as she is not personally squatting.

**8.26.9** We agree that she would be recognised in the place of her deceased husband and with the same seniority. Her case for allotment of stall/ kiosk etc will be considered in accordance with the seniority of her deceased husband. Matter disposed of accordingly.

**8.27** These references show that such person should not be registered as hawker who is doing his business through servants. it means that the hawker himself should hawk. He should be a bonafide or genuine squatter and other person should not be allowed to work under his name. If any vendor dies during his trade his wife would be recognised in the place of her deceased husband.

**8.28 Hon'ble Supreme Court in Sodan Singh case ( 1992) 2 SCC 458** has observed that ' the Court should adopt a compassionate approach so as to ensure that genuine hawkers/ squatters should not be denied of their daily bread at the altar of technicalities. On the other hand those who are out to exploit and abuse the process of law do not succeed."

**8.29** It is one of the major demand from different organizations of the street vendors/ hawkers/ squatters particularly national Association of Street Vendors of India ( NASVI) and Self- Employed Women's Association ( SEWA) that their should be a uniform Central Law on street vendors. They say that, it is argued that since the subject matter relates to Municipal laws and other entries pertaining to state list under Seventh Schedule of the Constitution so it should be enacted by states and Center responsibility is confined to Model Bill. However, NaSVI and SEWA feel that it is not matter of Municipal Regulation, but of livelihood, employment and Social Security of urban poor. The mere fact that street vending takes place in municipalities/ local authorities, which are covered by entries in the state list is not determinative. Therefore, it should be a Central Law like NREGA or Un- Organized Workers Social Security Act. The State Law Commission has considered this aspect also at length and came to the conclusion that the proposed law is co-related with the Municipal Laws and its governing bodies are ultimately vested in the Municipalities/ Municipal Corporations/ Local Bodies administration, therefore, State law Will be a proper legislation to protect the federal structure of the Constitution, as subject matter lies under state list. Otherwise, it will give another point of debate for Center States relation like incorporating the provisions of lokyukta's under the Lokpal Bill,

pending in the Rajya Sabha, and proposed amendments in the R.P.F. Act by the Central Government.

**8.30** The State Law Commission has tried to keep in mind all the aforesaid issues in framing the Model Draft Bill ( Annexure-I).

**8.31** We are of the opinion that above guidelines of the Hon'ble Apex Court and High Courts and other observations of the Commission be observed strictly by the State Government at the time of enacting a State Legislation and framing of the Policy regarding street vendors.

CHAPTER -IX  
RECOMMENDATIONS

9.1 On the demand of organizations of street vendors/ hawkers/ squatters particularly National Association of Street Vendors of India and observations of the Hon'ble Supreme Court and High Courts in various judgments related to the street vendors/ hawkers/ squatters, as stated earlier, the Government of India, Ministry of Housing and Urban Poverty Alleviation has proposed a Model Street Vendors Bill, 2009. However, the State Legislature has not enacted such law on the lines of Model Bil, 2009 or in any other form so for.

9.2 Therefore, the State Law Commission, keeping in mind all aforesaid issues discussed under preceding chapters particularly Chapter-VIII, has also drafted a Model Bill ( Annexure-I) with this report, to be submitted to the State Government.

9.3 If law is enacted in terms of proposed Draft Bill Annexure0I it will prove a milestone to solve the much awaited problems of street vendors/ hawkers/ squatters. It will also chech the exploitation and harassment of the street vendors by police and municipal officials. It will provide for protection of livelihood of urban street vendors and to promote street vending, trade and service provided by street vendors to the public.

9.4 Hence, in view of aforesaid discussion, we are recommending the following Model Draft Bill ( Annexure-I) titled "**THE UTTAR PRADESH STREET VENDORS ( PROTECTION OF LIVELIHOOD AND REGULATION OF TRADE) BILL, 2012,**" to be enacted by the State legislation to solve the problems of street vendors, general public and administration.

9.5 The proposed Model Bill contains:

**CHAPTER- I**  
**PRELIMINARY**

**Clause 1. Short title, extent and commencement:-**

- (1) This Act may be called as the The Uttar Pradesh Street Vendors ( Protection of Livelihood and Regulation of Trade) Act, 2012.
- (2) It extends to all the Urban Local Bodies/ Municipal limits in the State of Uttar Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.
- (4) The provisions of this Act shall not apply to the properties owned by the Government of India.

**Clause 2. Definitions:**

- (1) In this Act, unless the context otherwise requires,-
  - (a) "**government**" means the Government of Uttar Pradesh.
  - (b) "**holding capacity**" means the mazimum number of street vendors that can be accommodated in an orderly manner in any market, location, area or zone;
  - (c) "**Local authority**" means a Municipal Corporation or Municipal Council, Municipality, Nagarpalika, Nagar Mahapalika or or a Nagar Panchayat, or by whatever name called, or the Urban Development Authority or such other body legally entitled to function as a local authority in any city or town to provide civic amenities and services and regulate street vending, and includes the " planning authority" which regulate the land use in that city or town;

(d) "**mobile vending aid**" means and includes push cart on wheels ( Thela), a vending structure attached to a bicycle, scooter, or any other light motorized vehicle of less than 800cc engine power or a light structure capable of being moved from place to place on a daily basis;

(e) "**mobile vendor**" means a person who sells goods or offers services in any of the following ways:

(i) moving from place to place on foot while carrying basket on head, or in bags or contraptions attached to own body;

(ii) moving from place to place on foot while carrying wares on a push cart;

(iii) moving by bicycle or scooter or any other light motorized vehicle of less than 800 cc engine power;

(iv) selling wares in moving buses, trains, house to house carrying goods on a cart or on own body for regular or casual customers for on-the- spot payment.

(f) "**natural market**" means a market where sellers and buyers have traditionally congregated for a specified period for the sell and purchase of a given set of products or service as specified by the Local Authority;

(g) "**notification**" means a notification published in the official Gazette of the State of Uttar Pradesh;

(i) "**public place**" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not and it includes public streets vested in the Local Authority or the State Government or any other authority so empowered under the law.

(j) "**planning authority**" means a Urban development authority, Area Development Authority, Town Planning Authority and any other authority responsible for the master plan, development plan, zonal plan, layout plan or any other spatial plan, legally enforceable under the applicable Town and Country Planning/ Urban Development/ Municipal or any such Act;

(k) "**prescribed**" means prescribed by rules made under this Act by the State Government;

(l) "**state level appellate authority**" means a state level appellate authority as established under this Act;

(m) "**state nodal officer**" means an officer designated by the State Government to co-ordinate all matters relating to urban street vending in the State;

(n) "**scheme**" means means a scheme framed under this Act;

(o) "**stationary vendor**" means a person who offers goods or services on a particular spot by keeping the goods on the ground, or by operating from a mobile non-motorized redhi, push cart ( Thela), riksha, but does not include a person operating from a permanent or semi-permanent structure.

(p) "**street**" means a roadway in an urban area, owned and maintained by the municipality for public use, a paved public thoroughfare in a built environment, and a public parcel of land adjoining buildings in an urban context, on which people may freely assemble, interact, and move about.

(q) "**street vendor**" means a person engaged in vending of articles, goods, wares, food items or merchandise or offering services to the general public, in a street, lane, side walk, footpath, pavement, outside the public park or any other public places or private areas or by moving from place to place using any of the aids described under

Clause (d) and employing any of the means described under Clause (e) for transportation of wares, using cloth, umbrella, plastic sheet, or other material or contraption for safety of self and wares and includes hawker, peddler, squatter and all other synonyms terms which may be local or region- specific; and the words " street vending" with their grammatical variations and cognate expressions, shall be construed accordingly;

(r) "**town vending committee**" means the town vending committee as constituted under this Act.

(s) "**town vending dispute Redressal forum**" means a town vending dispute Redressal forum as established under this Act.

(t) "**vending zone**" means an area or place or a location designated as such by the planning authority for the specific use by street vendors for street vending and includes footpath, sidewalk, pavement, embankment, portions of a street, waiting area for public or any such place considered suitable for vending activities and providing services to the general public.

(u) "**vending zone regulation committee**" means a self help group of street vendors of a vending zone responsible for maintenance, cleanliness and public hygiene.

(v) "**Zonal Vending Committee**" means the Zonal Vending Committee as constituted under this Act.

(2) Any reference in this Act to any enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

**CHAPTER- II****SCHEME FOR STREET VENDORS****Clause 3. Scheme for street vendors:-**

(1) For the purposes of this Act, the State Government shall frame, by notification, a scheme which may provide for all or any of the following matters, namely:-

- (a) the form and manner of grant, renewal, suspension or cancellation of a registration certificate and issue of identity Card to the street vendors;
- (b) the manner of levy and collection of fees for the grant and renewal of a registration certificate and fines for contravention of the terms and conditions of registration and other provisions of this Act;
- (c) the form and manner of filing appeals to, and procedure for disposal of appeals by the " Town Vending Dispute Redressal Forum" and " State Level Appellate Authority" respectively;
- (d) the norms of spatial planning to be adopted by the Planning Authority for earmarking adequate space for street vendors and vending zones for street vendors in the master plan, development plan, zonal plan, layout plan and any other spatial plans;

Provided that the amount of space so allocated shall be sufficient to accommodate all existing street vendors and it shall not be more than 2% of the public place.

- (e) the principles for determination of vending zones, as restriction-free-vending zones, restricted-vending zones and no-vending zones in streets and public places;
  - (f) the condition under which private places may be designated as restriction-free-vending zones, restricted-vending zones and no-vending zones;
  - (g) the principles for determining holding capacity of vending zones and the manner of undertaking comprehensive digitalized photo census and survey of the existing number of street vendors for the purpose of accommodating them within the holding capacity of the vending zones;
  - (h) the terms and conditions for street vending, stationary and mobile in different streets and public places including norms to be observed for up-keeping public health and hygiene;
  - (i) the manner of, and the terms and conditions of, allotment of stalls to the registered street vendors;
  - (j) the designation of a Nodal Officer for co-ordination of all matters relating to street vending at the state level;
  - (k) the manner of maintenance of proper records and other documents in respect of street vendors;
  - (l) the manner of giving notice, eviction, impounding, destruction or seizure of stalls, goods and equipments and relocation of street vendors;
  - (m) any other particulars which may be considered by the State Government as proper to be included in the scheme.
- (2) A summary of the scheme notified by the State Government under sub-section (1) shall be published by the Government in at least two local news papers in such manner as may be prescribed.

**CHAPTER -III****TOWN VENDING COMMITTEE****Clause 4. Town Vending Committee:-**

(1) The State Government shall, in each local authority, constitute a committee of members to be called the town vending committee to guide and implement the street vending policy.

(i) The committee shall consist of the following number of members, depending upon the size of Local Authority, namely:

(a) Urban local body with above 10 lakhs - 30 members;  
population

(b) Urban local body with a population - 20 memnners;  
between 3-10 lakhs

(c) Urban local body with a population -15 members;  
between 1-3 lakhs

(d) Urban local body with less than 1 lakh -10 members  
population

(ii) The Municipal Commissioner shall be the Chairperson.

(iii) In urban local bodies with above 10 lakhs population there shall be Zonal Vending Committees with composition and membership within it, being similar to the Town Vending Committee as specified under Section 4(1).

(iv) 40% of members in Zonal Vending Committee/ Town Vending Committee shall be nominated from the Zonal level/ Town level / Street Vendor's Federation.

Provided that one third of the members shall be from women street vendors.

(v) 30% members shall be from

(a) Officers from the Local Authority of Town Planning, Sanitation ( excluding Municipal Commissioner).

(b) Officers from Police and Traffic Department ( at least one person not below the rank of Inspector of Police);

(c) Officers from Revenue Department ( at least one person, not below the rank of district Revenue officer).

(d) Officers from concerned Urban Development Authorities. ( wherever applicable)

(vi) 10% members representing the elected members of the Urban Local Body.

(vii) 10% members representing Resident Welfare Association and community based Organizations.

(viii) 10% members representing from NGO's, professional groups like Lawyers, Doctors etc., representatives of trade and commerce, and representatives from Scheduled banks.

Provided that reasonable representation shall be given to the persons who are physically challenged.

- (ix) Such number of members in the committee to be constituted shall maintain the rule of reservation to the categories of Scheduled Castes, Scheduled Tribes and Backward Communities and women as per their quota as prescribed by State Government in the case of Urban Local Body elections.
- (2) The members nominated under clause (iii), (v) to (viii) of subsection (1) shall, unless his / her nomination is terminated earlier by the competent authority on allegation proved with due procedure in existence, hold office for a term of three years from the date of his nomination to Zonal/ Town Vending Committee.

Provided that the vacancy so raised shall be nominated immediately in the next meeting of the vending committee.

**Clause 5. Office space and other employees for Zonal/ Town Vending Committee.**

The State Government may provide to the Zonal/ Town Vending Committee office space and such other necessary infrastructure as may be prescribed.

**Clause 6. Meeting of Zonal/ Town Vending Committee.**

The Vending committee shall meet once in quarter duly following the pertinent principles of quorum and notice period.

Provided that the meeting shall observe such rules of procedure in relation to the conduct of business as may be prescribed.

**Clause 7. Constitution of Ward Vending Committees.** - The Town Vending Committee may constitute, in such manner and for such purposes, such number of Ward Vending Committees, as may be prescribed.

**Clause 8. Powers and functions of Zonal/ Town Vending committee.-**

(1) The Committee shall, save otherwise provided in this Act, perform the following functions, namely:-

- (a) grant renew, suspend or cancel registration certificates to street vendors, in such form and manner, and on such terms and conditions, as may be specified;
- (b) issue to the street vendors identity cards in such form and manner as may be specified;
- (c) collect such fee for registration or renewal of registration of street vendors as may be specified;
- (d) determine the manner of collecting fees through banks, counters of municipality or counters of Zonal/ Town Vending Committee, fee for registration, usage of parking space for mobile stalls and availing of civic services, in consultation with Local Authority;
- (e) identify and designate vending zones;
- (f) specify timings for vending in vending zones;
- (g) maintain the records of land, street, footpath, embankment, waiting area, park and other public places designated for vending in such manner as may be specified;
- (h) conduct periodic surveys of vending zones;
- (i) collect and maintain data regarding street vendors;

- (j) determine quantitative norms for different categories of stationary and mobile stalls in the vending zones;
- (k) Assess and determine maximum holding capacity of each vending zone;
- (l) identify and declare vending zones as restriction- free- vending zones, restricted- vending zones and no- vending zones in the manner specified;
- (m) fix sign boards at each vending zone to indicate kind of vending zone, its boundaries and vending timings;
- (n) declare place and timings of vendors markets for weekly haats, night bazaars and festival bazaars ;
- (o) ensure adequacy of of civic amenities, including water, sanitation, and waste management, electricity, provided in the vending zones;
- (p) monitor activities of street vendors;
- (q) ensure that the quality of products and services provided to the public and public health, hygiene and safety standards as specified by the municipality are maintained.
- (r) ensure that allotted stalls are utilized by the allottees in accordance with the terms and conditions specified;
- (s) specific the terms and conditions for issue, renew, suspension or cancellation of registration in the manner specified;
- (t) determine actions including imposition of fine for violating the terms and conditions for registration;
- (u) promote awareness regarding credit through institutional mechanisms;
- (v) determine norms for regulating the activities of street vendors;
- (w) determine terms and conditions for providing benefits of insurance, maternity benefits, old age pension and other social security schemes to the street vendors in case of death, illness of disability;

- (x) lay down guidelines for organizing associations and self help groups of street vendors;
  - (y) conduct training programmes for street vendors with a view to enlighten them with entrepreneurship and technical and business skills; and
  - (z) redress grievances and resolve disputes amongst the street vendors.
- (2) The Town Vending Committee shall identify, recognize and regularize the existing natural markets by carrying out the mapping exercise and by preparing the schematic plans for the same.
- (3) The Town Vending committee shall demarcate weekly markets, the criteria for such markets may be as follows:
- (i) Weekly markets to be held in areas which have traditionally been having weekly markets.
  - (ii) weekly markets to be held particularly on the day when the normal markets or establishments of that area are closed.
  - (iii) The size of vending site for each vendor will not be more than 6 ×4 open.
  - (iv) The timings of the weekly markets should be decided according to the actual timings of the bazaars which would inter alia include the needs of the people who depend on these bazaars. The timings for summer and winters should be different.
  - (v) Regular collection of tehbazaari by Municipal/ Local Authority.
  - (vi) Principles of Natural markets.

- (4) The Town Vending Committee may change nature of a particular vending zone from vending zone to no-vending zone and from no-vending zone to vending zone if any, such circumstances and situation arises.

Provided that as for as possible such effected persons may be accommodated elsewhere in any other vending zone within the municipal limit.

- (5) The Vending Committee shall prepare and publish its annual report of its activities, planning, budget accounts in such form and manner as may be prescribed.

## **CHAPTER- IV**

### **DISPUTE REDRESSAL MECHANISM**

#### **Clause 9. Dispute Redressal Mechanism:-**

- (1) The State Government shall establish a Town Vending Dispute Redressal Forum for each Town Vending Committee. Any dispute arising out of the implementation of this Act shall be decided by the Town Vending Dispute Redressal Forum.
- (2) The State Government shall establish a State Level Appellate Authority where an appeal over the decision of Town Vending Dispute Redressal Forum shall lie.

Provided that the State Government may by rules made in this regard provide for the jurisdiction and procedure of the Town Vending Dispute Redressal Forum and State Level Appellate Authority.

**Clause 10. Composition of the district forum:**

(1) Each Town Vending Dispute Redressal Forum shall consist of-

(a) A person who is, or who has been a member of Uttar Pradesh Higher Judicial Service or an officer of the Indian Administrative Service or an officer of the Provincial Civil Service ( Executive branch), atleast in the selection grade of pay scale or above, who shall be its president;

(b) two other members, one of whom shall be a woman, who shall have the following qualifications, namely:-

(i) be not less than thirty-five years of age;

(ii) posses a bachelor's degree from a recognized university;

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to human rights and social economic affairs:

Provided that a person shall be disqualified for appointment as member if he/she-

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(b) is an un-discharged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

- (d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
- (e) has, in the opinion of the State Government, such interest as is likely to affect prejudicially the discharge by him of his functions as a member; or
- (f) has such other disqualifications as may be prescribed by the State Government.

(2) Every appointment under sub-section (1) shall be made by the State Government on the recommendation of selection Committee consisting of the following namely:

- (i) The President of the State Appellate Authority - Chairman,
- (ii) Secretary, Law Department of the State - Member,
- (iii) Secretary, in-charge of Department of urban development or any other department dealing with affairs of street vendors in the State - Member

Provided that where the President of the State Appellate authority is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting judge of that High Court to act as chairman.

(3) Every member of the District Forum shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier:

Provided that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (2) in place of the person who has resigned:

(4) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the District Forum shall be such as may be prescribed by the State Government.

Provided that the process for appointment of a member of the Town Vending dispute Redressal Forum on whole-time basis shall be initiated by the State Government, and on the recommendation of the selection committee appointment of a member of the Town Vending Dispute Redressal Forum shall be made.

**Clause 11. APPEAL:** Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Appellate Authority within a period of thirty days from the date of the order, in such form and manner as may be prescribed:

Provided that the State Appellate Authority may entertain an appeal after the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

**Clause 12. Composition of the State Appellate Authority:**

(1) State Appellate authority shall consist of-

(a) person who is or has been a judge of a High Court, appointed by the State Government, shall be its President.

Provided that process for appointment under this clause shall be initiated by the State Government and after consultation with the chief Justice of the High Court the appointment of the President of the State Appellate Authority shall be made;

(b) two other members, who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with problems relating to human rights and socio-economic affairs or law or administration, one of whom shall be a woman;

Provided that process for every appointment made under this clause shall be initiated by the State Government, and appointment shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:-

- |   |           |
|---|-----------|
| (i) President of the State Appellate authority  | -Chairman |
| (ii) Secretary of the Law Department of the State   | - Memeber |
| (iii) Secretary, in-charge of Department of urban development or any other department dealing with affairs of street vendors in the State | -Member   |

- (2) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the State Appellate authority shall be such as may be prescribed by the State Government.
- (3) Every member of the State Appellate Authority shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier and shall not be eligible for re-appointment.

## **CHAPTER- V**

### **TRANSPERANCY PROCEDURES**

#### **Clause 13. Transparency procedures:-**

Appointment of non official members of the Vending Committee:

- (1) Persons to be appointed as non official members of the Vending Committee must satisfy the following minimum qualifications:
  - (a) They must be affiliated with an organization working for the benefit of street vendors;
  - (b) such organization must have been registered as a trust, cooperative, trade union, society or any other form of organization capable to be registered under the law in force;
  - (c) Such organization must have been registered in accordance with the law in force for a consecutive period of three years or more;
  - (d) Such organization must have complied with the provisions of the relevant law under which it is registered with regard to conducting audits and filing returns.
- (2) The Local Authority shall take into consideration and give preference to the following criteria when nominating persons affiliated with organizations established for the benefit of street vendors:

- (a) organizations having record of working for the bebenefit of street vendors for a greater number of years;
- (b) organizations having a larger number of street vendors as their members, beneficiaries or affiliates;

**Clause 14. Demarcation of Vending Zones:-**

(1) The Town Vending Committee shall demarcate vending zones and no-vending zone and holding capacity in accordance with the criteria laid down under this Act. The Town Vending Committee shall specify in writing the manner in which the holding capacity of a vending zone is demarcated. In addition, the Town Vending Committee shall specify in writing why the other areas over which its jurisdiction extends, have not been demarcated as vending zones.

(2) The Reasons in writing specified under this section shall be put up on the website of the Local Authority and shall be freely available to any person at the offices of the Local Authority or at any other location that the Local Authority might specify.

(3) The Local Authority shall invite objections to the demarcation of vending zones and no-vending zones and the declaration of holding capacity by giving notice of the same and calling for objections in not less than two local newspaper. Such notice shall appear in the local newspapers for a consecutive period of not less than seven days.

(4) Within a period of thirty days from the notice first appearing in the local newspapers as specified in this section, any person may give their objections to the Town Vending Committee. If required, the Town Vending Committee may designate panel consisting of three or more members of the Town Vending Committee to hear oral objections.

- (6) The Town Vending committee may modify the demarcation of vending zones and non-vending zones and the declaration of holding capacity within one month of hearing objections. The Town Vending Committee shall specify in writing their modifications, along with their reasons in writing for such modification or non-modification.

**Clause 15. Publication of lists:**

- (1) Within Sixty days of the commencement of registration in accordance with the provisions of this Act the Town Vending Committee shall publish registration lists showing the names of all street vendors who have been registered. This list shall be affixed in not less than three public places specified.
- (2) Within sixty days of the commencement of license in accordance with the provisions of this Act the Town Vending Committee shall publish a lists showing the names of all street vendors who have been granted license. This list shall be affixed in not less than three public places specified by the Town Vending Committee. The said lists shall be updated every 90 days.

**Clause 16. Rejection of Licenses:** Whenever the Town Vending Committee declines to grant a license to any person in accordance with the provisions of this Act it shall inform the person in writing of its reasons for so doing.

**CHAPTER -VI****REGISTRATION OF STREET VENDORS**

**Clause 17. Registration of Street Vendors:-** Subject to the provisions of this Act, any street vendor working in the urban area or wishing to be vendor shall be registered as a street vendor under this Act, and shall be entitled the benefits provided by the provisions of this Act.

**Clause 18. Eligibility and Application for registration:-**

(1) Every person who has completed the age of eighteen years and intends to do street vending shall make an application for registration as street vendor to the Town Vending Committee or the officer authorized by the vending committee.

Provided that a minor person, who is above the age of 14 years, shall not be disqualified from assisting in the vending activities.

(2) Every application under sub-section (1) shall be made to the vending committee or an officer authorized by vending committee in such manner, form and with such fee as may be prescribed.

**Clause 19. Registration of Street Vendors:-**

(1) An application made under subsection (1) of section 18 shall be examined by the Town Vending Committee and the registration made within such period, and in such manner, as may be specified;

Provided that on completion of specified period, if no response is received by the applicant about rejection or deficiencies in the application, the applicant shall be deemed to have been registered.

(2) The Town Vending committee shall not summarily reject the application without giving the applicant an opportunity to rectify deficiencies, if any and hearing him.

(3) If the Town Vending Committee or the officer authorized by Town Vending Committee, as the case may be, is satisfied that the application is in compliance with the provisions of this Act and the rules or or schemes made thereunder, he shall register the name of the street vendor.

(4) Any person aggrieved by the decision of the Town Vending Committee under this Chapter may raise the dispute before the Town Vending Dispute Redressal Forum within thirty days, and in such manner, as may be prescribed.

(5) The following categories shall be disqualified from registration:

- (a) person owning/ occupying shops or establishment
- (b) Person with criminal records;
- (c) Person with regular, formal sector jobs
- (d) Person who is employing are will employ servants to run his trade.

## **CHAPTER - VII**

### **LICENCING**

#### **Clause 20. Grant of license-**

A registered street vendor to whom a stall has been allotted in a vending zones shall be granted a license and renewed from time to time by the Local Authority, in such manner, on payment of such fee, and subject to

such terms and conditions, as may be specified by the Local Authority.

**Clause 21. Rights and entitlement for license:** A street vendor shall be entitled to get license for one vending place only. He shall have no propriety right or right to either let, sub let, or sell or transfer that vending place to another person or benami holder.

**Clause 22. Reservation:** One third licenses shall be reserved for the disadvantage categories like women, disabled, senior citizens.

## **CHAPTER- VIII**

### **ROLE OF MUNICIPAL AUTHORITY**

**Clause 22. Responsibilities of Municipal Authority :**

(1) The Local Authority shall be responsible for:-

- (a) overall supervision and monitoring of the scheme and effective functioning of the vending committees;
- (b) provision of sufficient civic facilities to street vendors and Vendors' Markets in consultation with the vending committees, including:
  - I. solid waste disposal,
  - II. public toilets to maintain cleanliness,
  - III. electricity,
  - IV. drinking water,
  - V. shelter to protect street vendors and their wares,
  - VI. storage facilities, beautification, placement of signage, and
  - VII. other facilities as needed by street vendors.
- (b) fixation of fees/ levies to be charged from street vendors for purposes of registration, use of space, availing civic services and manner of their collection, in consultation with the vending committee as per scheme;

- (c) allocation of staff and budget to each Planning Committee, vending committee subject to a minimum annual grant and that at least 50 per cent of the fees and fines collected by a committee is passed on to it for discharging various functions effectively.
- (2) Each Local Authority, on coming into effect of this Act or as the case may be, in consultation with the vending committees concerned, shall undertake comprehensive digitalized, photo census and survey of the existing number of vendors by engaging competent professional institutions in order to draw up a realistic plan for accommodating all of them in a rational and citizen-friendly manner.
- (3) The survey and census count under sub-section (2) may involve the following steps, namely:-
- (a) ward by ward, cluster-by-cluster, street-by street, market by market mapping of the area where the vendors are located in each city/ town.
  - (b) photographic digitized census count of street vendors and their location with the collection of information in such formats as may be specified.
- (4) The entire database of street vendors shall be duly notified, put on the municipal website and updated at regular intervals.
- (5) The local/ Municipal authority may accord preference to registered street vendors in the allotment of shops in regular markets whenever licenses are issued for setting up new shops and market complexes, depending on the length of registration.

**Explanation:-** The concerned vendor shall surrender his registered vending spot on such an allotment.

**Clause 24. Framing of by- laws:** Subject to the provisions of this Act or any rules or scheme made there under, the Local authority may make bye-laws to provide for all or any of the following matters, namely:-

- (1) the regulation and manner of vending in restriction- free-vending zone, restricted- vending zones and designated vending zones;
- (2) the regulation of the collection of taxes and fees in the vending zones;
- (3) regulation of traffic in the vending zones;
- (4) the regulation of the quality of products and services provided to the public in vending zones and maintenance of public health, hygiene and safety standards;
- (5) the regulation of civic services in the vending zones; and
- (6) the regulation of such other matters in the vending zones as may be necessary.

## **CHAPTER -IX**

### **ROLE OF PLANNING AUTHORITY**

**Clause 25. Responsibility of planning authority:**

- (1) Notwithstanding anything contained in any other law for the time being in force, the Planning Authority shall be responsible for -
  - (a) determining spatial planning norms for adequate street vending, balancing the interests of the street vendors and the general public with regard to use of streets and public places;
  - (b) earmarking sufficient space for vending zones / vendors' Markets in the master plan, zonal development plans, layout plans and other plans defining the extent of streets or areas for particular vending activities;

- (c) monitoring the functioning of the vending committees with regard to the planning norms;
  - (d) discharging any other function or duty which may be assigned by the State/ Central Government, as the case may be, from time to time to promote the welfare and interest of the street vendors.
- (2) Planning Authority as soon as may be, shall notify adequate spaces for accommodating all existing street vendors in designated vending or hawking zones amending the city/town master plan, zonal development plan layout plans and other plans, taking into account the needs of both stationary and mobile vendor.
- (3) The demarcation of vending zones shall be specific to the requirements of each town or city, sufficient for existing demand for street vendors' goods and services, as well as space for likely increase in tune with the anticipated population growth.
- (4) The spatial plans made by the planning authority shall be conducive and adequate for the prevalent number of street vendors of the respective city/town and future growth taking into account the following norms, namely:-
- (a) the natural propensity of the street vendor to locate in certain places at certain times in response to patterns of demand for their goods and services;
  - (b) to create space for new entrants to the street vending occupation with the natural expansion of the town/ city for allocation through a transparent mechanism such as the credible and reliable draw of lots;

- (c) to promote optimum utilization of space by defiling " holding capacity" of different areas to accommodate the maximum possible vendors without compromising the legitimate requirements of vendors, road users and aspects of public health and hygiene;
- (d) to divide a city/ town into vending and non vending zones;
- (e) consult with vendors associations, in working out zoning and notifying the same in a manner as may be prescribed;

## **CHAPTER- X**

### **SUSPENSION, CANCELLATION OF REGISTRATION, AND PENALTY**

#### **Clause 26. Cancellation or suspension of registration:-**

where any street vendor who has been registered under this Act commits breach of any of the provisions under this Act or any rules or schemes made thereunder, or where the Town Vending Committee is satisfied that such registration has been secured by the street vendor through misrepresentation or fraud, the Town Vending Committee may cancel the registration or suspend the same for such period as it thinks fit and he shall be liable to pay such fine which may have been incurred by the street vendor.

Provided that no such cancellation or suspension shall be made by the Town Vending Committee unless an opportunity of hearing has been given to the street vendor.

**Clause 27. Cancellation or suspension of allotment of stall, license etc:-**

Where any street vendor to whom a stall has been allotted or a license has been granted under this Act commits a breach of any of the provisions under this Act or any rules or schemes made thereunder, or where the municipality is satisfied that such allotment of stall or license, as the case may be, has been secured by the street vendor through misrepresentation or fraud, the municipality may cancel the allotment of stall or license, as the case may be, or suspend the same for such period as it thinks fit and he shall be liable to pay such fine which may have been incurred by the street vendor:-

Provided that no such cancellation or suspension shall be made by the Local Authority unless an opportunity of hearing has been given to the street vendor.

**Clause 28. Penalty for contraventions:-** If any street vendor-

- (a) indulges in street vending without registration;
- (b) vends beyond the designated vending zones or specified timings;
- (c) vends goods or offers services that are detrimental to public health;
- (d) contravenes the terms and conditions of vending including health and safety norms involved in food processing and storage as laid down by the concerned authority;
- (e) contravenes any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made thereunder. He shall be liable to a penalty which shall not be less than rupees one thousand but which may extend to rupees five thousand, as

may be determined by the Town Vending committee, or as the case may be, by the Local Authority.

## **CHAPTER XI REGULATION**

### **Clause 29. Promotion of civic discipline and public hygiene by street vendors:**

(1) The street vendors shall organize Vending Zone Regulation Committee in each market or vending zone to promote the norms of civic discipline by institutionalizing mechanisms of public hygiene, disposal of waste and providing free passage to the public.

(2) The Vending Zone Regulation committee shall be formed on the basis of actual representation of Street Vendors working in the Vending Zone.

(3) The Town/ Zonal Vending committee shall supervise the functioning and organization of Vending Zone Regulation Committee and prescribe rules in this regard.

**Clause 30. Procedure for Eviction and Confiscation:** The State Government may make rules to determine regulatory process to be followed by Local authority while evicting the vendors and confiscation of the goods;

Provided that in absence of any rule in this regard the procedure prescribed under this section may be adhered;

(a) In the rarest case if any street vendor needs to be temporarily evicted i.e. for festival or national celebrations, then prior notice of two days shall be given to the vendors of that natural market and their union or Zonal Vending Regulation Committee before evicting the vendors.

(b) The municipal authorities while confiscating goods shall draw a Panchnama. At least two independent witnesses preferably a representative of street vendors organization or Zonal Vending Regulation Committee shall witness the panchnama.

Provided that when none of the witness represents any street vendors the confiscating authority shall record the reason in writing for such unavailability of the witness.

(c) The Panchnama shall contain:

(i) Name of the vendor

(ii) Date time and place of the confiscation.

(iii) Description and weight of the goods and larri.

(iv) Name, Position and Department of the persons who has confiscated the goods.

(v). Number of the lorry in which confiscated goods are taken.

(vi) Name and address of the godown where the confiscated goods are taken.

(vii) Name, address, contact number and the organization of the witnesses.

(d) Copy of the panchnama may be given free of charge to the vendor and his signature should be procured to the effect that he has received the panchnama.

(e) The procedure for the release of the goods shall be made easier so that even a illitereate vendor can follow it up.

(f) Prescribed form for the release of the goods may be prepared by the municipal authorities and fee of rs. 2 may be charged per form.

(g) The card given for the release of the goods may contain the name, address designatin of the person releasing the goods and the date when the goods will be released.

- (h) The time limit may be fixed for releasing different type of goods. Larri and weights should be released in two days and this period shall be mentioned in the panchnama.
- (i) The complaint number may be written on the larri weights and the goods at the time of the confiscation by the authorities and the same should be mentioned in the panchnama so that the vendor can get her own larri, weights and goods.
- (j) The Municipal authorities shall not confiscate perishable itmes like fruits and vegetables. Even if they confiscate the goods they shall release them immediately within an hour.
- (k) Nodal Officer shall be made responsible for the confiscation and release of the goods by the Local Authorities.

## **CHAPTER- XII**

### **PROMOTIONAL MEASURES, RESEARCH AND TRANING**

#### **Clause 31. Promotional measures:**

The State Government and Local authorities shall undertake promotional measures of social security, availability of credit, insurance and other welfare programmes for street vendors in consultation with their associations or unions, Vending Zone Regulation Committees, Municipal/ Local authority and Planning Authorities. It may also give directions ot the vending committees in this regard so as to ascertain their involvement.

**Clause 32. Research and training:** The State Government may

- (1) develop and organize capacity building programmes for street vendors and on how to exercise the rights contemplated under this Act;

(2) undertake research, education and training programmes to advance knowledge and understanding of the role of the informal sector in the economy, in general and street vendors, in particular and to raise awareness among the public through vending committees.

### **CHAPTER- XIII**

#### **FOOD VENDORS**

#### **Clause 33. Provisions for food vendors:**

(1) The town vending committee may frame appropriate rules to be complied with by street vendors who prepare food or other edible items as their business in order to maintain cleanliness, hygiene and public health.

(2) The town Vending Committee may carry out spot inspections to ensure that such rules are observed by such street vendors.

(3) In case of non-compliance by any street vendor for three continuous spot inspections, the town Vending Committee may revoke the license of such street vendor.

### **CHAPTER- XIV**

#### **MISCELLANEOUS**

**Clause 34. Delegation of powers:** Vending committee by resolution passed in this regard delegate to the chairperson or any other member or to secretary or any other officer subject to such conditions and limitations as may be specified in the resolution such powers and duties under this Act as it may deem necessary.

**Clause 35. Filing of returns:** Every Town Vending committee shall furnish, from time to time, to the State Government and the Local Authority such returns as may be prescribed.

**Clause 36. Removal of doubts:**

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the House of State Legislative Assembly/ Parliament.

**Clause 37. Power to make rules:**

(1) The State Government may by notification, make rules for carrying out the provisions of this Act.

(2) Every rule and scheme made under this Act shall be laid, as soon as may be after it is made, before the both Houses of State Legislature.

**Clause 38. Savings and Repeal:** Nothing contained in this Act shall affect the operation of any corresponding law in a state for welfare schemes which are more beneficial to the street vendors than those provided for them by or under this Act.

**9.6** We hope and trust that the Government of Uttar Pradesh would take immediate steps for enactment of new legislation in terms of the accompanying Model Draft Bill ( Annexure-I).

**9.7** We further hope that the pain and sufferings of the street vendors would lessen considerably with these recommendation and other initiatives of the State Government.

**9.8** Sudden traffic snarls, encroachment of pavements and roads and unruly soliciting should be a matter of past, once the legislature of State enacted a law like the proposed Draft Bill ( Annexure-I) and the provisions of the Draft Bill are implemented.

**9.9** Without amendments to existing Indian Penal Code, Police Act and Municipal Laws, the new Act if comes into existence would not be effective enough to legally protect and regulate the street vendors. Therefore, as stated earlier under Chapter-III, certain provisions of these Act are also require amendments.

**9.10** We recommend accordingly.

**(Justice V.C. Misra)**

Chairman

(Prof. Balraj Chauhan)

Member ( Part-time)

(Ishwar Dayal)

Member ( Full-time)

**THE UTTAR PRADESH STATE LAW COMMISSION  
THIRTEENTH -REPORT- 2012**

**ON**

**"UTTAR PRADESH STREET VENDORS ( PROTECTION OF  
LIVELIHOOD AND REGULATION OF TRADE) BILL, 2012,"**

**THE UTTAR PRADESH STATE LAW COMMISSION**

**THIRTEENTH- REPORT- 2012**

**ON**

**"THE UTTAR PRADESH STREET VENDORS ( PROTECTION OF LIVELIHOOD AND REGULATION OF TRADE) BILL, 2012,"**

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**THE UTTAR PRADESH STREET VENDORS ( PROTECTION OF  
LIVELIHOOD AND REGULATION OF TRADE) BILL, 2012,**

**A  
BILL**

to provide for protection of livelihood of urban street vendors and to promote street vending trade and services provided by street vendors to the public and for matters connected therewith or incidental thereto.

**WHEREAS** the Bill aims to reflect the spirit of the Constitution of India on the right of citizens to equal protection before the law ( Subject to reasonable restriction) as well as their right to practice any profession, occupation, trade or business; and the duty of the State to strive to minimize the inequalities in income, and to adopt policies aimed at securing that the citizen have the right to adequate means of livelihood as enshrined in Article 14, 19 (1) (g), 38 (2), 39(a), 39(b) and 41 of the Constituion.

**AND WHEREAS** urban street vendors form an important segment of the self employed in the unorganized sector and considerably add to the comfort of the general public by making available ordinary articles of everyday use at affordable prices and at convenient locations, nevertheless they live in constant insecurity of losing their livelihoods by the authorities;

**AND WHEREAS** the right of street vendors to carry out their trade or business need to be harmonized with the rights of other citizens;

**AND WHEREAS** Street Vendors form a sizeable portion of the total urban population. They suffer from lack of a supportive environment for earning their livelihood and are engaged in petty businesses without identity or security. Further their preoccupation with meeting their daily subsistence needs preempts them from making any moves to organize themselves to raise their voice for a better deal from society.

**AND WHEREAS** Street vendors suffer from lack of basic civic facilities at the place of vending, harassment and extortion, burdened with being responsible for congestion in public spaces & streets, causing inconvenience to pedestrians, creating security and law and order issues and sometimes held accountable for unhygienic conditions in the streets.

**NOW, THEREFORE**, it is expedient to give recognition to the vital role played by the street vendors in the urban economy, recognize and legalize their status, promote a supportive environment for their activities and protect their livelihoods,

(a) the citizens, men and women equally, have the right to an adequate means of livelihood; and

(b) the ownership and control of the material resources of the community are so distributed as best to sub-serve the common good;

**NOW, THEREFORE**, it is considered appropriate to enact a legislation which gives legality and protection to the street vendors to carry on their business without fear or threat of harassment or eviction, giving due consideration to the traffic, addressing the civic imperatives.

IT IS HEREBY, enacted by the Legislature of State of Uttar Pradesh in the Sixty-third Year of the Republic of India as follows:

## **CHAPTER- I**

### **PRELIMINARY**

#### **1. Short title, extent and commencement:-**

(1) This Act may be called as The Uttar Pradesh Street Vendors ( Protection of Livelihood and Regulation of Trade) Act, 2012.

(2) It extends to all the Urban Local Bodies/ Municipal limit in the State of Uttar Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

(4) The provisions of this Act shall not apply to the properties owned by the Government of India.

## 2. Definitions:

(1) In this Act, unless the context otherwise requires,-

- (a) "**government**" means the Government of Uttar Pradesh;
- (b) "**holding capacity**" means the maximum number of street vendors that can be accommodated in an orderly manner in any market, location, area or zone;
- (c) "**local Authority**" means a Municipal Corporation or Municipal Council, Municipality, Nagarpalika, Nagar Mahapalika or a Nagar Panchayat, or by whatever name called, or the urban Development Authority or such other body legally entitled to function as a local authority in any city or town to provide civic amenities and services and regulate street vending, and includes the " Planning authority" which regulate the land use in that city or town;
- (d) "**mobile Vending aid** " means and includes push cart on wheels (Thela), a vending structure attached to a bicycle, scooter, or any other light motorized vehicle of less than 800cc engine power or a light structure capable of being moved from place to place on a daily basis;
- (e) "**mobile Vendor**" means a person who sells goods or offers services in any of the following ways:
  - (i) moving from place to place on foot while carrying basket on head, or in bags or contraptions attached to own body;
  - (ii) moving from place to place on foot while carrying wares on a push cart;
  - (iii) moving by bicycle or scooter or any other light motorized vehicle of less than 800cc engine power;
  - (iv) selling wares in moving buses, trains, house to house carrying goods on a cart or on own body for regular or casual customers for on-the-spot payment.
- (f) "**natural Market**" means a market where sellers and buyers have traditionally congregated for a specified period for the sale and purchase of a given set of products or service as specified by the Local Authority;

- (g) "**notification**" means a notification published in the Official Gazette of the State of Uttar Pradesh;
- (h) "**public place**" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not and it includes public streets vested in the Local Authority or the State Government or any other authority so empowered under the law.
- (i) "**planning authority**" means a Urban Development authority, Area Development Authority, Town Planning Authority and any other authority responsible for the master plan, development plan, zonal plan, layout plan or any other spatial plan, legally enforceable under the applicable Town and Country Planning/ Urban Development/ Municipal or any such Act;
- (j) "**prescribed**" means prescribed by rules made under this Act by the State Government;
- (k) "**state level appellate authority**" means a state level appellate authority as established under this Act;
- (l) "**state nodal officer**" means an officer designated by the State Government to co-ordinate all matters relating to urban street vending in the State;
- (m) "**scheme**" means a scheme framed under this Act;
- (n) "**stationary vendor**" means a person who offers goods or services on a particular spot by keeping the goods on the ground, or by operating from a mobile non-motorized redhi, push cart (Thela), riksha, but does not include a person operating from a permanent or semi- permanent structure.
- (o) "**street**" means a roadway in an urban area, owned and maintained by the municipality for public use, a paved public thoroughfare in a built environment, and a public parcel of land adjoining buildings in an urban context, on which people may freely assemble, interact, and move about.

- (p) "**street vendor**" means a person engaged in vending of articles, goods, wares, food items or merchandise or offering services to the general public, in a street, lane, side walk, footpath, pavement, out side the public park or any other public places or private areas or by moving from place to palce using cloth, umbrella, plastic sheet, or other material or contraption for safety of self and wares and includes hawker, peddler, squatter and all other synomymys terms which may be local or region-specific; and the words " street vending" with their grammatical variations and cognate expressions, shall be construed accordingly;
- (q) "**town vending committee**" means the town vending committee as constituted under this Act;
- (r) "**town vending dispute redressal forum**" means a town vending dispute Redressal forum as established under this Act;
- (s) "**vending zone**" means an area or place or a location designated as such by the planning authority for the specific use by street vendors for street vending and includes footpath, sidewalk, pavement, embankment, portions of a street, waiting area for public or any such place considered suitable for vending activities and providing serices to the generalpublic;
- (t) "**vending zone regulation committee**" means a self help group of street vendors of a vending zone responsible for maintenance, cleanliness and public hygiene;
- (u) "**zonal vending committee**" means the Zonal Vending Committee as constituted under this Act.
- (2) Any reference in this Act to any enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

**CHAPTER -II**  
**SCHEME FOR STREET VENDORS**

3. Scheme for street vendors:-

(1) For the purposes of this Act, the State Government shall frame, by notification, a scheme which may provide for all or any of the following matters, namely:-

- (a) the form and manner of grant, renewal, suspension or cancellation of a registration certificate and issue of Identity Card to the street vendors;
- (b) the manner of levy and collection of fees for the grant and renewal of a registration certificate and fines for contravention of the terms and conditions of registration and other provisions of this Act;
- (c) the form and manner of filing appeals to, and procedure for disposal of appeals by the " Town Vending Dispute Redressal Form" and State Level Appellate Authority" respectively;
- (d) the norms of spatial planning to be adopted by the Planning Authority for earmarking adequate space for street vendors and vending zones for street vendors in the master plan, development plan, zonal plan, layout plan and any other spatial plans;

Provided that the amount of space so allotted shall be sufficient to accommodate all existing street vendors and it shall not be more than 2% of the public place.

- (e) the principles for determination of vending zones, as restriction- free - vending zones, restricted-vending zones and no-vending zones in streets and public places;
- (f) the condition under which private places may be designated as restriction- free- vending zones, restricted-vending zones and no-vending zones;

- (g) the principles for determining holding capacity of vending zones and the manner of undertaking comprehensive digitalized photo census and survey of the existing number of street vendors for the purpose of accommodating them within the holding capacity of the vending zones;
  - (h) the terms and conditions for street vending, stationary and mobile in different streets and public places including norms to be observed for up-keeping public health and hygiene;
  - (i) the designation of a Nodal Officer for co-ordinations of, allotment of stalls to the registered street vendors;
  - (j) the designation of a Nodal Officer for co-ordination of all matters relating to street vending at the state level;
  - (k) the manner of maintenance of proper records and other documents in respect of street vendors;
  - (l) the manner of giving notice, eviction, impounding, destruction or seizure of stalls, goods and equipments and relocation of street vendors;
  - (m) any other particulars which may be considered by the State Government as proper to be included in the scheme.
- (2) A summary of the scheme notified by the State Government under sub-section (1) shall be published by the Government in at least two local news papers in such manner as may be prescribed.

## CHAPTER- III

### TOWN VENDING COMMITTEE

#### 4. Town Vending Committee: -

(1) The State Government shall, in each local authority, constitute a committee of members to be called the town vending committee to guide and implement the street vending policy.

(i) The committee shall consist of the following number of members, depending upon the size of Local Authority, namely:

- |   |               |
|---|---------------|
| (a) Urban local body with above 10 lakhs population       | - 30 members; |
| (b) Urban local body with a population between 3-10 lakhs | - 20 members; |
| (c) urban local body with a population between 1-3 lakhs. | - 15 members; |
| (d) Urban local body with less than 1 lakh population     | - 10 members; |

(ii) The Municipal Commissioner shall be the Chairperson.

(iii) In Urban Local bodies with above 10 lakhs population there shall be Zonal Vending committees with composition and membership within it, being similar to the Town Vending committee as specified under Section 4(1).

(iv) 40% of members in Zonal Vending committee/ Town Vending committee shall be nominated from the Zonal level/ Town level/ Street Vendor's Federation.

Provided that one third of the members shall be from women street vendors.

(v) 30% members shall be from

- (a) officers from the Local Authority of Town Planning, Sanitation (excluding Municipal Commissioner)
- (b) Officers from Police and Traffic Department ( at least one person not below the rank of inspector of Police);
- (c) Officers from Revenue Department ( at least one person, not below the rank of District Revenue Officer).
- (d) Officers from concerned Urban Development Authorities. ( wherever applicable)

(vi) 10% members representing the elected members of the Urban Local Body.

(vii) 10% members representing Resident Welfare Association and community based Organizations.

(viii) 10% members representing from NGO's, professional groups like Lawyers, Doctors etc., representatives of Trade and commerce, and representatives from Scheduled banks.

Provided that reasonable representation shall be given to the persons who are physically challenged.

(ix) such number of members in the committee to be constituted shall maintain the rule of reservation to the categories of Scheduled Castes, Scheduled Tribes and backward Communities and women as per their quota as prescribed by State Government in the case of Urban Local Body elections.

(2) The members nominated under clause (iii), (v) to (viii) of sub-section (1) shall, unless his/ her nomination is terminated earlier by the competent authority on allegation proved with due procedure in existence, hold office for a term of three years from the date of his nomination to Zonal/ Town Vending Committee.

Provided that the vacancy so raised shall be nominated immediately in the next meeting of the vending committee.

**5. Office space and other employees for zonal/ Town Vending Committee.**

The State Government may provide to the Zonal/ Town Vending committee office space and such other necessary infrastructure as may be prescribed.

**6. Meeting of Zonal/ Town Vending Committee.**

The Vending committee shall meet once in quarter duly following the pertinent principles of quorum and notice period.

Provided that the meeting shall observe such rules of procedure in relation to the conduct of business as may be prescribed.

**7. Constitution of Ward Vending Committees:-** The Town Vending Committee may constitute, in such manner and for such purposes, such number of Ward Vending Committees, as may be prescribed.

**8. Powers and functions of Zonal/ Town Vending committee:-**

(1) The Committee shall, save otherwise provided in this Act, perform the following functions, namely:-

- (a) grant, renew, suspend or cancel registration certificates to street vendors, in such form and manner, and on such terms and conditions, as may be specified;
- (b) issue to the street vendors identity cards in such form and manner as may be specified;
- (c) collect such fee for registration or renewal of registration of street vendors as may be specified;
- (d) determine the manner of collecting fees through banks, counters of municipality or counters of Zonal/ Town Vending Committee, fee for registration, usage of parking space for mobile stalls and availing of civic services, in consultation with Local Authority;
- (e) identify and designate vending zones;
- (f) specify timings for vending in vending zones;
- (g) maintain the records of land, street, footpath, embankment, waiting area, park and other public places designated for vending in such manner as may be specified;
- (h) conduct periodic surveys of vending zones;
- (i) collect and maintain data regarding street vendors;

- (j) determine quantitative norms for different categories of stationary and mobile stalls in the vending zones;
- (k) assess and determine maximum holding capacity of each vending cone;
- (l) identify and declare vending zones as restriction-free-vending zones, restricted-vending zones and no-vending zones in the manner specified;
- (m) fix sign boards at each vending zone to indicate kind of vending zone, its boundaries and vending timings;
- (n) declare place and timings of vendors markets for weekly haats, night bazaars and festival bazaars;
- (o) ensure adequacy of civic amenities, including water, sanitation, and waste management, electricity, provided in the vending zones;
- (p) monitor activities of street vendors;
- (q) ensure that the quality of products and services provided to the public and public health, hygiene and safety standards as specified by the municipality are maintained;
- (r) ensure that allotted stalls are utilized by the allottees in accordance with the terms and conditions specified;
- (s) specific the terms and conditions for issue, renew, suspension or cancellation of registration in the manner specified;
- (t) determine actions including imposition of fine for violating the terms and conditions for registration;
- (u) promote awareness regarding credit through institutional mechanisms;
- (v) determine norms for regulating the activities of street vendors;
- (w) determine terms and conditions for providing benefits of insurance, maternity benefits, old age pension and other social security schemes to the street vendors in case of death, illness or disability;
- (x) lay down guidelines for organizing associations and self help groups of street vendors;
- (y) conduct training programmes for street vendors with a view to enlighten them with entrepreneurship and technical and business skills; and
- (z) redress grievances and resolve disputes amongst the street vendors.

- (2) The Town Vending Committee shall identify, recognize and regularize the existing natural markets by carrying out the mapping exercise and by preparing the schematic plans for the same.
- (3) The Town Vending committee shall demarcate weekly markets, the criteria for such markets may be as follows:
  - (i) Weekly markets to be held in areas which have traditionally been having weekly markets.
  - (ii) Weekly markets to be held particularly on the day when the normal markets or establishments of that area are closed.
  - (iii) The size of vending site for each vendor will not be more than 6x4 open.
  - (iv) The timings of the weekly markets should be decided according to the actual timings of the bazaars which would inter alia include the needs of the people who depend on these bazaars. The timings for summer and winters should be different.
  - (v) Regular collection of teh bazaari by Municipal/ Local Authority.
  - (vi) Principles of Natural markets.
- (4) The Town Vending Committee may change nature of a particular vending zone from vending zone to no-vending zone and from no-vending zone to vending zone if any, such circumstances and situation arises.

Provided that as far as possible such affected persons may be accommodated elsewhere in any other vending zone within the municipal limit.
- (5) The Vending Committee shall prepare and publish its annual report of its activities, planning, budget accounts in such form and manner as may be prescribed.

**CHAPTER- IV****DISPUTE REDRESSAL MECHANISM****9. Dispute Redressal Mechanism:-**

- (1) The State Government shall establish a Town Vending Dispute Redressal Forum for each Town Vending Committee. Any dispute arising out of the implementation of this Act shall be decided by the Town Vending Dispute Redressal Forum.
- (2) The State Government shall establish a State Level Appellate Authority where an appeal over the decision of Town Vending Dispute Redressal Forum shall lie.

Provided that the State Government may by rules made in this regard provide for the jurisdiction and procedure of the Town Vending Dispute Redressal Forum and State Level Appellate authority.

**10. Compositin of the district forum:**

- (1) Each Town Vending Dispute Redressal Forum shall consist of -
  - (a) A person who is, or who has been a member of Uttar Pradesh Higher Judicial Service or an officer of the Indian Administrative Service or an officer of the Provincial Civil Service ( Executive Branch) atleast in the selection grade of pay scale or above, who shall be its president;
  - (b) two other members, one of whom shall be a woman, who shall have the following qualifications, namely:-
    - (i) be not less than thirty-five years of age;
    - (ii) posses a bachelor's degree from a recognized university,
    - (iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to human rights and socio-economic affairs:

Provided that a person shall be disqualified for appointment as member if he/she-

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or
- (b) is an un-discharged insolvent; or
- (c) is of unsound mind and stands so declared by a competent court; or
- (e) has, in the opinion of the State Government, such interest as is likely to affect prejudicially the discharge by him of his functions as a member; or
- (f) has such other disqualifications as may be prescribed by the State Government.

(2) Every appointment under sub-section (1) shall be made by the State Government on the recommendation of selection committee consisting of the following namely:

- (i) The President of the State Appellate Authority- Chairman,
- (ii) Secretary, Law Department of the State- - Member,
- (iii) Secretary, in-charge of Department of urban development or any other department dealing with affairs of street vendors in the State - Member.

Provided that where the President of the State Appellate Authority is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High court to act as Chairman.

(3) Every member of the District Forum shall hold office for a term of five year or up to the age of sixty- five years, whichever is earlier:

Provided that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (2) in place of the person who has resigned:

- (4) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the District Forum shall be such as may be prescribed by the State Government.

Provided that the process for appointment of a member of the Town Vending Dispute Redressal Forum on whole-time basis shall be initiated by the State Government, and on the recommendation of the selection committee appointment of a member of the Town Vending Dispute Redressal Forum shall be made.

- 11. APPEAL:** Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Appellate Authority within a period of thirty days from the date of the order, in such form and manner as may be prescribed:

Provided that the State Appellate Authority may entertain an appeal after the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

**12. COMPOSITION OF THE STATE APPELLATE AUTHORITY:**

(1) State Appellate Authority shall consist of-

- (a) person who is or has been a Judge of a High Court, appointed by the State Government, shall be its President.

Provided that process for appointment under this clause shall be initiated by the State Government, and after consultation with the Chief Justice of the High Court the appointment of the President of the State Appellate Authority shall be made;

(b) two other members, who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with problems relating to human rights and socio-economic affairs or law or administration, one of whom shall be a woman; Provided that process for every appointment made under this clause shall be initiated by the State Government, and appointment shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:-

- (i) President of the state Appellate Authority - Chairman,
  - (ii) Secretary of the Law Department of the State - Member,
  - (iii) Secretary, in- charge of Department of urban development or any other department dealing with affairs of street vendors in the State- Member.
- (2) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the State Appellate Authority shall be such as may be prescribed by the State Government.
- (3) Every member of the State Appellate Authority shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier and shall not be eligible for re-appointment.

## **CHAPTER V TRANSPARANCY PROCEDURES**

### **13. Transparency Procedures:**

Appointment of non official members of the Vending Committee:

- (1) Persons to be appointed as non official members of the Vending Committee must satisfy the following minimum qualifications:
- (a) They must be affiliated with an organization working for the benefit of street vendors;
  - (b) Such organization must have been registered as a trust, cooperative, trade union, society or any other form of organization capable to be registered under the law in force;

- (c) Such organization must have been registered in accordance with the law in force for a consecutive period of three years or more;
  - (d) Such organization must have complied with the provisions of the relevant law under which it is registered with regard to conducting audits and filing returns.
- (2) The Local authority shall take into consideration and give preference to the following criteria when nominating persons affiliated with organizations established for the benefit of street vendors:
- (a) organizations having a record of working for the benefit of street vendors for a greater number of years;
  - (b) organizations having a larger number of street vendors as their members, beneficiaries or affiliates;

#### **14. Demarcation of Vending Zones:-**

- (1) The Town Vending Committee shall demarcate vending zones and no-vending zone and holding capacity in accordance with the criteria laid down under this Act. The Town Vending Committee shall specify in writing the manner in which the holding capacity of a vending zone is demarcated. In addition, the Town Vending Committee shall specify in writing why the other areas over which its jurisdiction extends, have not been demarcated as vending zones.
- (2) The reasons in writing specified under this section shall be put up on the website of the Local Authority and shall be freely available to any person at the offices of the Local Authority or at any other location that the Local Authority might specify.
- (3) The Local Authority shall invite objections to the demarcation of vending zones and no-vending zones and the declaration of holding capacity by giving notice of the same and calling for objections in not less than two local newspapers. Such notice shall appear in the local newspapers for a consecutive period of not less than seven days.
- (4) Within a period of thirty days from the notice first appearing in the local newspapers as specified in this section, any person may give their objections to the Town Vending Committee. If required, the Town vending committee may designate panel consisting of three or more members of the Town Vending Committee to hear oral objections.

- (5) The Town Vending Committee may modify the demarcation of vending zones and no-vending zones and the declaration of holding capacity within one month of hearing objections. The Town Vending Committee shall specify in writing their modifications, along with their reasons in writing for such modification or non-modification.

**15. Publication of Lists:**

- (1) Within sixty days of the commencement of registration in accordance with the provisions of this Act the Town Vending Committee shall publish registration lists showing the names of all street vendors who have been registered. This list shall be affixed in not less than three public places specified by the Town Vending Committee. The registration lists shall be updated after every 90 days.
- (2) Within sixty days of the commencement of the license in accordance with the provisions of this Act the Town Vending Committee shall publish a lists showing the names of all street vendors who have been granted license. This list shall be affixed in not less than three public places specified by the Town Vending Committee. The said lists shall be updated every 90 days.

- 16. Rejection of Licenses:** whenever the Town Vending Committee declines to grant a license to any person in accordance with the provisions of this Act it shall inform the person in writing of its reasons for so doing.

**CHAPTER VI  
REGISTRATION OF STREET VENDORS**

- 17. Registration of Street Vendors:-** Subject to the provisions of this Act, any street vendor working in the urban area or wishing to be vendor shall be registered as a street vendor under this Act, and shall be entitled the benefits provided by the provisions of this Act.

**18. Eligibility and application for registration.-**

- (1) Every person who has completed the age of eighteen years and intends to do street vending shall make an application for registration as street vendor to the town Vending Committee or the officer authorized by the vending committee.

Provided that a minor person, who is above the age of 14 years, shall not be disqualified from assisting in the vending activities.

- (2) Every application under sub-section (1) shall be made to the vending committee or an officer authorized by vending committee in such manner, form and with such fee as may be prescribed.

**19. Procedure for registration of street vendors.-**

- (1) An application made under subsection (1) of section 18 shall be examined by the Town Vending Committee and the registration made within such period, and in such manner, as may be specified;

Provided that on completion of specified period, if no response is receive by the applicant about rejection or deficiencies in the application, the applicant shall be deemed to have been registered.

- (2) The Town Vending Committee shall not summarily reject the application without giving the applicant an opportunity to rectify deficiencies, if any and hearing him.
- (3) If the Town Vending Committee or the officer authorized by Town Vending Committee, as the case may be, is satisfied that the application is in compliance with the provisions of this Act and the rules or schemes made there under, he shall register the name of the street vendor.
- (4) Any person aggrieved by the decision of the Town Vending Committee under this chapter may, raise the dispute before the Town Vending Dispute Redressal Forum within thirty, and in such manner, as may be prescribed.

(5) The following categories shall be disqualified from registration:

- (a) Person owning/occupying shops or establishment
- (b) Person with criminal records;
- (c) Person with regular, formal sector jobs
- (d) Person who is employing or will employ servants to run his trade.

## **CHAPTER-VII LICENCING**

### **20. Grant of license-**

A registered street vendor to whom a stall has been allotted in a vending zones shall be granted a license and renewed from time to time by the Local Authority, in such manner, on payment of such fee, and subject to such terms and conditions, as may be specified by the Local Authority.

**21. Rights and entitlement for license:** A street vendor shall be entitled to get license for one vending place only. He shall have no propriety right or right to either let, sub let, or sell or transfer that vending place to another person or benami holder.

**22. Reservation:** One third licenses shall be reserved for the disadvantage categories like women, disabled, senior citizens.

## **CHAPTER-VIII ROLE OF MUNICIPAL AUTHORITY**

### **23. Responsibilities of Municipal Authority:**

(1) The Local Authority shall be responsible for:-

- (a) overall supervision and monitoring of the Scheme and effective functioning of the vending committees;
- (b) provision of sufficient civic facilities to street vendors and Vendors' markets in consultation with the vending committees, including:
  - I. solid waste disposal
  - II. public toilets to maintain cleanliness,
  - III. electricity,
  - IV. drinking water,
  - V. shelter to protect street vendors and their wares,
  - VI. storage facilities, beautification, placement of signage, and
  - VII. other facilities as needed by street vendors.

- (c) fixation of fees/levies to be charged from street vendors for purposes of registration, use of space, availing civic services and manner of their collection, in consultation with the vending committee as per scheme;
- (b) allocation of staff and budget to each planning committee, vending committee subject to a minimum annual grant and that at least 50 per cent of the fees and fines collected by a Committee is passed on to it for discharging various functions effectively.

(2) Each Local Authority, on coming into effect of this Act of as the case may be, in consultation with the vending committees concerned, shall undertake comprehensive digitalized, photo census and survey of the existing number of vendors by engaging competent professional institutions in order to draw up a realistic plan for accommodating all of them in a rational and citizen-friendly manner.

(3) The survey and census count under sub-section (2) may involve the following steps, namely:-

- (a) ward by ward, cluster-by-cluster, street-by street, market-by market mapping of the area where the vendors are located in each city/town.
- (b) photographic digitized census count of street vendors and their location with the collection of information in such formats as may be specified.

(4) The entire database of street vendors shall be duly notified, put on the municipal website and updated at regular intervals.

(5) The local/ Municipal authority may accord preference to registered street vendors in the allotment of shops in regular markets whenever licenses are issued for setting up new shops and market complexes, depending on the length of registration.

**Explanation:-** The concerned vendor shall surrender his registered vending spot on such an allotment.

**24. Framing of by-laws:** Subject to the provisions of this Act or any rules or scheme made there under, the Local authority may make bye-laws to provide for all or any of the following matters, namely:-

- (1) the regulation and manner of vending in restriction- free- vending zones, restricted-vending zones and designated vending zones;
- (2) the regulation of the collection of taxes and fees in the vending zones;
- (3) regulation of traffic in the vending zones;
- (4) the regulation of the quality of products and services provided to the public in vending zones and maintenance of public health, hygiene and safety standards;
- (5) The regulation of civic services in the vending zones; and
- (6) the regulation of such other matters in the vending zones as may be necessary.

## **CHAPTER IX**

### **ROLE OF PLANNING AUTHORITY**

#### **25. Responsibility of planning authority:**

- (1) Notwithstanding anything contained in any other law for the time being in force, the Planning Authority shall be responsible for-
  - (a) determining spatial planning norms for adequate street vending, balancing the interests of the street vendors and the general public with regard to use of streets and public places;
  - (b) earmarking sufficient space for vending zones/Vendors' Markets in the master plan, zonal development plans, layout plans and other plans defining the extent of streets or areas for particular vending activities;
  - (c) monitoring the functioning of the vending committees with regard to the planning norms;
  - (d) discharging any other function or duty which may be assigned by the State/Central Government, as the case may be, from time to time to promote the welfare and interest of the street vendors.
- (2) Planning Authority as soon as may be, shall notify adequate spaces for accommodating all existing street vendors in designated vending or hawking zones amending the city/town master plan, zonal development plan layout plans and other plans, taking into account the needs of both stationary and mobile vendor.

- (3) The demarcation of vending zones shall be specific to the requirements of each town or , sufficient for existing demand for street vendors' goods and services, as well as space for likely increase in tune with the anticipated population growth.
- (4) The spatial plans made by the planning authority shall be conducive and adequate for the prevalent number of street vendors of the respective city/town and future growth taking into account the following norms, namely:-
- (a) the natural propensity of the street vendor to locate in certain places at certain times in response to patterns of demand for their goods and services;
  - (b) to create space for new entrants to the street vending occupation with the natural expansion of the town/city for allocation through a transparent mechanism such as the credible and reliable draw of lots;
  - (c) to promote optimum utilization of space by defiling "holding capacity" of different areas to accommodate the maximum possible vendors without compromising the legitimate requirements of vendors, road users and aspects of public health and hygiene;
  - (d) to divide a city/town into vending and non vending zones;
  - (e) consult with vendors associations, in working out zoning and notifying the same in a manner as may be prescribed;

## **CHAPTER X**

### **SUSPENSION, CANCELLATION OF REGISTARATION, AND PENALITY**

#### **26. Cancellation or suspension of registration.-**

Where any street vendor who has been registered under this Act commits breach of any of the provisions under this Act or any rules or schemes made thereunder, or where the Town vending Committee is satisfied that such registration has been secured by the street vendor through misrepresentation or fraud, the Town Vending Committee may cancel the registration or suspend the same for such period as it thinks fit and he shall be liable to pay such fine which may have been incurred by the street vendor.

provided that no such cancellation or suspension shall be made by the Town Vending Committee unless an opportunity of hearing has been given to the street vendor.

**27. Cancellation or suspension of allotment of stall, license etc.-**

Where any street vendor to whom a stall has been allotted or a license has been granted under this Act commits a breach of any of the provisions under this Act or any rules or schemes made there under, or where the municipality is satisfied that such allotment of stall or license, as the case may be, has been secured by the street vendor through misrepresentation or fraud, the municipality may cancel the allotment of stall or license, as the case may be, or suspend the same for such period as it thinks fit and he shall be liable to pay such fine which may have been incurred by the street vendor.

Provided that no such cancellation or suspension shall be made by the local Authority unless an opportunity of hearing has been given to the street vendor.

**28. Penalty for contraventions.-** If any street vendor-

- (a) indulges in street vending without registration;
- (b) vends beyond the designated vending zones or specified timings;
- (c) vends goods or offers services that are detrimental to public health;
- (d) contravenes the terms and conditions of vending including health and safety norms involved in food processing and storage as laid down by the concerned authority;
- (e) contravenes any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made thereunder.

he shall be liable to a penalty which shall not be less than rupees one thousand but which may extend to rupees five thousand, as may be determined by the Town Vending Committee, or as the case may be, by the Local Authority.

## **CHAPTER XI REGULATION**

### **29. Promotion of civic discipline and public hygiene by street vendors:**

- (1) The street vendors shall organize Vending Zone Regulation Committee in each market or vending zone to promote the norms of civic discipline by institutionalizing mechanisms of public hygiene, disposal of waste and providing free passage to the public.
- (2) The Vending Zone Regulation Committee shall be formed on the basis of actual representation of Street Vendors working in the Vending Zone.
- (3) The Town/Zonal Vending committee shall supervise the functioning and organization of Vending Zone Regulation Committee and prescribe rules in this regard.

### **30. Procedure for Eviction and confiscation:** The State Government may make rules to determine regulatory Process to be followed by Local authority while evicting the vendors and confiscation of the goods;

Provided that in absence of any rule in this regard the procedure prescribed under this section may be adhered;

- (a) In the rarest case if any street vendor needs to be temporarily evicted i.e. for festival or national celebrations, then prior notice of two days shall be given to the vendors of that natural market and their union or Zonal vending Regulation Committee before evicting the vendors.
- (b) The municipal authorities while confiscating foods shall draw a Panchnama. At least two independent witnesses preferably a representative of street vendors organization or Zonal Vending Regulation Committee shall witness the panchnama.

Provided that when none of the witness represents any street vendors the confiscating authority shall record the reason in writing for such unavailability of the witness.

- (c) The Panchnama shall contain:
- (i). Name of the vendor
  - (ii). Date time and place of the confiscation.
  - (iii). Description and weight of the goods and larri.
  - (iv). Name, Position and Department of the persons who has confiscated the goods.
  - (v). Number of the lorry in which confiscated goods are taken.
  - (vi). Name, and Address of the go down where the confiscated goods are taken.
  - (vii). Name, address, contact number and the organization of the witnesses.
- (d) Copy of the panchnama may be given free of charge to the vendor and his signature should be procured to the effect that he has received the panchnama.
- (e) The procedure for the release of the goods shall be made easier so that even a illiterate vendor can follow it up.
- (f) Prescribed form for the release of the goods may be prepared by the municipal authorities and fee of Re. 2 may be charged per form.
- (g) The card given for the release of the goods may contain the name, address designation of the person releasing the goods and the date when the goods will be released.
- (h) The time limit may be fixed for releasing different type of goods. Larri and weights should be released in two days and this period shall be mentioned in the panchnama.
- (i) The complaint number may be written on the larri weights and the goods at the time of the confiscation by the authorities and the same should be mentioned in the panchnama so that the vendor can get her own larri, weights and goods.
- (j) The Municipal authorities shall not confiscate perishable items like fruits and vegetables. Even if they confiscate the goods they shall release them immediately within an hour.
- (k) Nodal Officer shall be made responsible for the confiscation and release of the goods by the local Authorities.

## **CHAPTER XII**

### **PROMOTIONAL MEASURES, RESEARCH AND TRAINING**

#### **31. Promotional measures:**

The State Government and Local authorities shall undertake promotional measures of social security, availability of credit, insurance and other welfare programmes for street vendors in consultation with their associations or unions, Vending Zone Regulation Committees, Municipal/local authority and Planning Authorities. It may also give directions to the vending committees in this regard so as to ascertain their involvement.

#### **32. Research and training:** The State Government May

- (1) develop and organize capacity building programmes for street vendors and on how to exercise the rights contemplated under this Act;
- (2) undertake research, education and training programmes to advance knowledge and understanding of the role of the informal sector in the economy, in general and street vendors, in particular and to raise awareness among the public through vending committees.

## **CHAPTER XIII**

### **FOOD VENDORS**

#### **33. Provisions for food vendors:**

- (1) The town vending committee may frame appropriate rules to be complied with by street vendors who prepare food or other edible items as their business in order to maintain cleanliness, hygiene and public health.
- (2) The town Vending committee may carry out spot inspections to ensure that such rules are observed by such street vendors.
- (3) In case of non-compliance by any street vendor for three continuous spot inspections, the town Vending Committee may revoke the license of such street vendor.

## **CHAPTER XIV MISCELLANEOUS**

**34. Delegation of powers:** Vending committee by resolution passed in this regard delegate to the chairperson or any other member or to secretary or any other officer subject to such conditions and limitations as may be specified in the resolution such powers and duties under this Act as it may deem necessary.

**35. Filing of returns:** Every Town Vending committee shall furnish, from time to time, to the State Government and the Local Authority such returns as may be prescribed.

**36. Removal of doubts:**

- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

- (2) Every order made under this section shall, as soon as may be, after it is made, be laid before the house of state Legislative Assembly/parliament.

**37. Power to make rules:**

- (1) The State Government may by notification, make rules for carrying out the provisions of this Act.
- (2) Every rule and scheme made under this Act shall be laid, as soon as may be after it is made, before the both Houses of State Legislature.

**38. Savings and Repeal:** Nothing contained in this Act shall affect the operation of any corresponding law in a state for welfare schemes which are more beneficial to the street vendors than those provided for them by or under this Act.

