



Proposed Amendments to Delhi Street Vending Rules

iJustice

PROPOSED AMENDMENTS TO THE STREET VENDORS RULES, 2014

The Government of the National Capital Territory of Delhi published the Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2014 in the Delhi Gazette on 26th of November, 2014 under the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

Although the rules are largely in consonance with the parent Act, there are six main flaws in the rules:

- Judicial appellate functions vested in an administrative body, i.e. the local authority;
- Lack of provision of interim relief to street vendors till judgment is passed by the Appellate Authority with regards to cases involving cancellation, suspension or issue of certificates of vending;
- Appointment of the non-elected private members of the town vending committees (TVCs) such as representatives of banks, Resident Welfare Associations, market associations is through nomination by the state government instead of merit based selection;
- Scope for misuse of powers by the Government regarding dissolution of TVCs;
- Lack of provisions for quorum in the meetings of the TVCs;
- No provision for publishing information: The minutes of the meetings of the TVC and all other information enlisted under Rule 25 should be published on its website within a month;

I. Local Authority as the Appellate Authority

There is also a minor mistake that in Rule 11 which is titled “Procedure for the Disposal of Appeals by the Local Authority” which should have read as “Procedure for the Disposal of Appeals by the Appellate Authority” for greater clarity.

The Rules state that the Grievance Redressal and Dispute Resolution Committee will have a Chairperson, who has been a Civil Judge or a Judicial Magistrate and two other professionals as members. Decisions given by this committee can be appealed against to a higher Appellate Authority set up by the Municipal Corporation. The Government has, however, not substantiated on the composition of this Appellate Authority. This ambiguous rule could mean that the Appellate Authority may consist of municipal officers, corporators and/or bureaucrats (this is in fact, what the Street Vendors Act of 2014 prescribes). The larger implications are that civil officers may be able to overturn the decision given by a Committee headed by a qualified

former Civil Judge/ Judicial Magistrate. Not only does this undermine judicial independence but also contravenes the doctrine of separation of powers.

The Government should be more specific about this Committee’s composition and ensure that it too is headed by an experienced and practiced judicial officer of greater rank than a Civil Judge/Judicial Magistrate.

II. Interim relief

Rule 10 states that an appeal under section 11 against a decision of a Town vending committee with respect to the issue, cancellation or suspension of the Certificate of Vending should be preferred before the Appellate Authority constituted by the concerned Local Authority. It however leaves no provisions to provide interim relief to the street vendors till the case is decided upon, a procedure which can take up to 180 days. For a hawker, such a delay can have devastating consequences. Its effects will only be exacerbated if it is coupled with high penalty of up to Rs 2000 that may be charged for violation of the terms of the certificate of vending (as per the Street Vendors Act, 2014). Thus, it is imperative that the Government amends the rules to provide for interim relief to the street vendors until the Appellate Authority gives its final decision.

III. Appointment of non-elected private members

As mentioned above, these rules have not made adequate provisions to ensure that the appointment of non-elected private members such as representatives of non-governmental organizations, resident welfare associations, traders associations, etc to the TVC is not done in an arbitrary manner. Rule 12 allows the Government to appoint the non-elected private members of the Town Vending Committee by simply nominating them, without any eligibility criteria of any sorts. This effectively allows the authorities to nominate just about anybody to the TVC (as long as it conforms to the incomprehensive guidelines under The Street Vendors Act, 2014). Not only is this system prone to misuse, it also hinders transparency. It would be far more effective if instead of a system of nomination, the Government would allow for all interested persons to send in applications requesting to be a member of the Town Vending Committee. The local authority could publish a notice calling for applications for membership of TVC (which should include the prescribed form for the application, the manner of its submission and the last date to submit it), on its website, prominent newspapers or in any conspicuous place in the local market(s). The aforesaid notice should be published thirty days prior to the last date for the submission of applications for membership of TVC. Any person, being a member of any market association, traders association, non-governmental organization or community based organization, resident welfare organization or bank would be allowed to apply for membership of TVC. The local authority could seek information with respect to particulars of the applicant and details of work experience and such other information as it may deem fit. Preference could be given to applicants demonstrating experience in market areas falling within its jurisdiction and having active engagement with the practice of street vending. The local authority should also record in writing reasons for accepting or rejecting each applicant and publish it on its website within thirty days from the last date for submission of application forms for members of TVCs. In absence of any applications, the government can then nominate the members. This process will not only improve transparency but also reduce scope for arbitrariness on the part of the Government in appointment of the members of the TVC.

IV. Misuse of powers

Rule 16 allows the Government to remove any of the Town Vending Committee’s members without the prior permission of the Legislature. These provisions are vague. In order to uphold independence of the TVC, provisions calling for the Government to record in writing, the reasons for the dismissal must be added to the Rules.

Even Rule 17, which allows the dissolution of the TVC, is vaguely worded for a provision which allows such a drastic step. Taking into consideration the fact that 80% of the members of the TVC are either elected or nominated by the Government, it would be advisable to delete this clause as a whole.

V. Quorum

To ensure that the TVC does not take decisions without consulting the primary stakeholders (the street vendors), the Government could consider providing for a quorum for the TVC – no meeting should be convened with less than 50% of the members representing street vendors present.

The Government should also have rules allowing the Chairman to issue a show cause notice to a member who absents himself from three consecutive meetings returnable in two weeks of its receipt. Thereafter, the Chairman may issue a warning to the concerned member and then terminate the membership of the concerned member where the member has failed to comply with a prior warning.

V. Transparency

Also, with an intention of making the functioning of the TVCs more transparent, the Government should also ensure that the minutes of the meetings of the TVC and all other information enlisted under Rule 25 are published on its website within a month.

Summary of Proposed Amendments

Rule	Original Section	Proposed Amendment	Rationale
Rule 9	<i>9. Appeal against the order or decision of the Grievance redressal and dispute resolution committee.-- (1) An appeal against an order or decision of a Grievance redressal and dispute resolution committee may be preferred by a aggrieved person, in Form 'B', to the Appellate Authority</i>	Amendment in clause (1) <i>9. Appeal against the order or decision of the Grievance redressal and dispute resolution committee.-- (1) An appeal against an order or decision of a Grievance redressal and dispute resolution committee may be preferred by a aggrieved person, in Form 'B', to the Appellate Authority headed by</i>	To prevent undermining of the judicial independence and upholding the Doctrine of separation of powers



	<i>constituted by the concerned Local Authority, within 30 days of the date of communication of such order or decision appealed against: Provided that the Appellate Authority may condone the delay if it is satisfied that the applicant was prevented by sufficient cause from preferring the application within the prescribed time.</i>	<i>an experienced and practiced judicial officer of greater rank that of a Civil Judge/Judicial Magistrate, constituted by the concerned Local Authority, within 30 days of the date of communication of such order or decision appealed against: Provided that the Appellate Authority may condone the delay if it is satisfied that the applicant was prevented by sufficient cause from preferring the application within the prescribed time.</i>	
Rule 11		<i>Insert clause (4) The Appellate Authority shall have the power to grant interim relief during the pendency of an appeal.</i>	In the interest of Judicial propriety
Rule 12 (3)	<i>The members of the Town vending committee except the elected members shall be nominated by the Government.</i>	<i>Amendment to clause (3) The members of the Town vending committee representing Government departments shall be nominated by the Government.</i> <i>Insert Clause (4) : Appointment of members from other bodies such as Market/ trader associations, NGOs, RWAs and banks except elected members to the Town Vending Committee shall be done by a call for applications through a notice followed by screening and selection of members. The local authority shall record in writing reasons for accepting or rejecting each applicant.</i>	In the interest of procedural propriety and fairness. This process will not only improve transparency but also reduce scope for arbitrariness on the part of the Government in appointment of the members of the TVC.
Rule 16	<i>Removal of a member of Town vending committee –</i>	<i>Insertion of another proviso Removal of a member of Town vending committee –</i>	Reduces scope of arbitrariness on part of



	<i>If in the opinion of the Government, any member of a Town vending committee persistently makes defaults in the performance of his duties imposed on him by/or under the Act and these rules or exceeds or abuses its powers, the Government, may, by order, remove such member from the committee. Provided that such member shall be given a reasonable opportunity of being heard before his removal.</i>	<i>If in the opinion of the Government, any member of a Town vending committee persistently makes defaults in the performance of his duties imposed on him by/or under the Act and these rules or exceeds or abuses its powers, the Government, remove such member from the committee. Provided that such member shall be given a reasonable opportunity of being heard before his removal. <i>Provided that the reasons for removal shall be recorded in writing.</i></i>	the Government and maintains the Town Vending Committee as an independent body.
Rule 17	<i>Dissolution of Town vending committee. If, in the opinion of the Government, a Town vending committee persistently makes defaults in the performance of duties imposed on it by/or under the Act and these rules or exceeds or abuses its powers, the Government may, by order, dissolve such Town vending committee and constitute a fresh Town vending committee.</i>	Deletion of Rule 17 <i>Dissolution of Town vending committee. If, in the opinion of the Government, a Town vending committee persistently makes defaults in the performance of duties imposed on it by/or under the Act and these rules or exceeds or abuses its powers, the Government may, by order, dissolve such Town vending committee and constitute a fresh Town vending committee.</i>	Reduces scope of arbitrariness on part of the Government and maintains the Town Vending Committee as an independent body.
Rule 20		<i>Insert clause (3) and (4) (3) Every meeting of the Town Vending Committee shall be conducted in the presence of not less than fifty percent of the members elected as representatives of street vendors. (4) Where a member absents himself from three consecutive meetings, the Chairman shall issue him/her a show cause notice to explain his/her absence, within two</i>	To ensure that the Town Vending Committee functions properly and does not take decisions without consulting all stakeholders especially street vendors.



		<p><i>weeks of receipt of such notice. Thereafter, the Chairman may issue the following orders:-</i></p> <p><i>(i) Issue a warning to the concerned member;</i> <i>or</i> <i>(ii) Terminate the membership of the concerned member; provided such termination order shall be issued as a last resort, where the member has failed to comply with one prior warning.</i></p>	
Rule 25	<p><i>Town vending committee to furnish return. – (1) Every Town vending committee shall prepare and furnish to the Government and Local Authority the following periodical returns for each year, namely: - [...]</i></p>	<p>Amendment to clause 1 Town vending committee to publish and furnish return. (1) Every Town vending committee shall publish the following information annually on its website within a month of furnishing the same to the Government and Local Authority:</p>	<p>In the interest of transparency in the functioning of the Town Vending Committee.</p>