

Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2014

Introduction

The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 (hereinafter referred to as the 'Street Vendors Act') was passed by the Indian Parliament on 19 February 2014 and received the President's assent in April 2014. The Street Vendors Act is a culmination of a decade long activism by civil society organizations and over a 30 year legal battle (beginning in the late 1950s) for the rights of street vendors.

In this background, iJustice (an initiative of Centre for Civil Society) hosted a roundtable with various stakeholders to discuss an effective implementation strategy for the said Act. During the course of the discussion, various issues were identified, namely,

- a) Arbitrary and non-transparent procedure for selection of members of the Town Vending Committees.
- b) Legal status of the Town Vending Committee constituted prior to the present Act coming into force.
- c) Continued harassment, eviction and confiscation of goods of street vendors.
- d) Legal proof of being an 'existing street vendor'.
- e) Relief for street vendors
- f) Operationalising of provision for inclusion of street vendors not included under the survey/census.

It was concluded that the first step towards ensuring effective implementation is to draft Model Rules under the said Act and present the same before the Government.

Rule making power under the Street Vendors Act

Section 36 of the Street Vendors Act grants rule making powers to the 'appropriate Government'¹. The Government is enjoined to formulate these rules within one year from the date of commencement of the Act.

Subject matter for rule making

Section 36(2) enumerates the subject matters under which the rules are to be made.

These are:

- a) Minimum age for street vending, under Section 4.
- b) Manner of constitution, term of members and conduct of business of Town Vending Committees, under Sections 22-25.
- c) Maintenance of records of registered street vendors and street vendors to who certificate of vending has been issued, under Section 26.
- d) Manner of publishing summary of Scheme, under Section 38(2).
- e) Appeal against issue, cancellation and suspension of certificate of vending under Section 11.
- f) Manner of constitution and conduct of business of the Dispute Redressal and Grievance Redressal Committee, under Section 20.

First principles

DO'S:

- a) All applicants, eligible under the Act to vend, must be registered.
- b) The procedure for application for vending, regulation of vending activity and

¹ Section 2(1)(a) of the Street Vendors Act defines 'appropriate Government' as "*means in respect of matters relating to, -*

- a) *a Union Territory without legislature, the Central Government;*
- b) *the Union Territories with Legislature, the Government of the National Capital Territory of Delhi or, as the case may be, the Government of Union Territory of Puducherry;*
- c) *a State, the State Government."*

dispute redressal must be simple, transparent and time bound; and complies with principles of natural justice.

DON'T'S:

- a) No cutoff date for application.
- b) No limit imposed on the number of registered vendors.

Rules

Group A

Issue, cancellation and suspension of certificate of vending (Section 11)

(1) Any person who is aggrieved by any decision of the Town Vending Committee with respect to issue of certificate of vending under section 6 or cancellation or suspension of certificate of vending under section 10 may prefer an appeal to the local authority in such form, within such period, and in such manner, as may be prescribed.

(2) No appeal shall be disposed of by the local authority unless the appellant has been given an opportunity of hearing.

- a) Any person aggrieved by the decision of the TVC regarding issue of certificate under Section 6 or suspension/cancellation of certificate under Section 11, may file an appeal with the local authority within three months from the date of such decision.
- b) The appeal maybe filed in writing or through electronic means, in English or in Hindi or in the colloquial language, in such form and manner as the aggrieved person is comfortable with.

- c) The local authority may charge a fees of rupees ten only at the time of filing of the appeal.
- d) On receipt of the appeal and the aforesaid amount, the local authority shall issue an acknowledgment to the aggrieved person. The said acknowledgment shall indicate the date and time of hearing of the appeal.
- e) At the conclusion of the hearing, the local authority shall pass an order with reasons recorded in writing.
- f) The local authority shall supply a copy of the order, free of cost, to the aggrieved person.

Dispute redressal mechanism (Section 20)

(1) The appropriate Government may constitute one or more committees consisting of a Chairperson who has been a civil judge or a judicial magistrate and two other professionals having such experience as may be prescribed for the purpose of deciding the applications received under sub-section (2): Provided that no employee of the appropriate Government or the local authority shall be appointed as members of the committee.

(2) Every street vendor who has a grievance or dispute may make an application in writing to the committee constituted under sub-section (1) in such form and manner as may be prescribed.

(3) On receipt of grievance or dispute under sub-section (2), the committee referred to in sub-section (1) shall, after verification and enquiry in such manner, as may be prescribed, take steps for redressal of such grievance or resolution of such dispute, within such time and in such manner as may be prescribed.

(4) Any person who is aggrieved by the decision of the committee may prefer an

appeal to the local authority in such form, within such time and in such manner as may be prescribed.

(5) The local authority shall dispose of the appeal received under sub-section (4) within such time and in such manner as may be prescribed: Provided that the local authority shall, before disposing of the appeal, give an opportunity of being heard to the aggrieved person.

Composition

- a) The Committee shall comprise of a Chairperson and two other members, one being an eminent lawyer with at least seven years of experience in litigation and the other being a social worker with at least three years of work experience.
- b) The Committee shall have tenure of three years.

Filing of grievance and redressal

- c) Every street vendor who has a grievance under the Act may file an application in writing, through himself or his affiliated Union, specifying his/her name, place of residence and details of the grievance.
- d) No application shall be filed by a street vendor more than three months after the date of occurrence of the grievance.
- e) The street vendor may pray for interim relief during the pendency of the application.
- f) On receipt of an application, the Committee shall hold a preliminary hearing with the applicant to determine whether there is a *prima facie* case. The result of the preliminary hearing shall be pronounced at the conclusion of the hearing and

recorded in writing. The Committee may grant or refuse the interim relief, if any, prayed by the street vendor, with reasons recorded in writing.

- g) The aforesaid order shall be communicated to the street vendor and where it is held that there is a *prima facie* case, a notice shall also be issued to the appropriate authority containing the details of the grievance.
- h) The appropriate authority shall file a written reply within two weeks from the date of receipt of the notice. A copy of the reply shall also be furnished to the street vendor, free of cost.
- i) The street vendor may file a reply to the aforesaid written reply within a period of two weeks from the date of receipt of the written reply.
- j) The Committee shall pass an order in writing, providing for redressal of the grievance as prescribed under the Act within such time period as it may deem fit.

Appeal

- k) Any person aggrieved by the aforesaid order, may file an appeal in writing. Such appeal shall contain the name, age and address of the aggrieved person, details of the order issued by the Committee and grounds for appeal. The appeal shall be accompanied with a copy of the order and a copy of the vending certificate of the street vendor.
- l) No appeal shall be filed later than 90 days from the date of the order of the Committee.
- m) On receipt of the appeal, the local authority shall issue a notice to the parties concerned intimating regarding the date and time of hearing.

- n) The parties shall appear before the local authority on the date appointed for hearing, which shall not be later than two weeks from the date of filing of appeal.
- o) The local authority shall pronounce its order after giving both parties an opportunity of being heard

Group B

Town Vending Committees (Section 22)

1) The appropriate Government may, by rules made in this behalf, provide for the term and the manner of constituting a Town Vending Committee in each local authority: Provided that the appropriate Government may, if considers necessary, provide for constitution of more than one Town Vending Committee, or a Town Vending Committee for each zone or ward, in each local authority.

(2) Each Town Vending Committee shall consist of:—

(a) Municipal Commissioner or Chief Executive 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, medical officer of the local authority, the planning authority, traffic police, police, association of street vendors, market associations, traders associations, non-governmental organizations, community based organizations, resident welfare associations, banks and such other interests as it deems proper;

(c) the number of members nominated to represent the non-governmental organisations and the community based organizations shall not be less than ten per cent.;

(d) the number of members representing the street vendors shall not be less than forty per cent. Who shall be elected by the street vendors themselves in such

manner as may be prescribed: Provided that one-third of members representing the street vendors shall be from amongst women vendors:

Provided further that due representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities from amongst the members representing street vendors.

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

A Town Vending Committee (TVC) forms the centre piece of the legislation, primarily responsible for registration, suspension and cancellation of certificate of vending for street vendors. Under the Act, the TVC is a representative body comprising of members from the local authority, planning authority, traffic police, local police, street vendor association, market association, traders' association, resident welfare association, non government organizations, community based organizations and banks. In particular, representatives of street vendors' are to be elected by street vendors' themselves while the other representatives are to be nominated by the appropriate Government.

Manner of composition

Nomination of Government representatives

- a) The appropriate Government shall nominate one representative each from the local authority, planning authority, traffic police and local police for membership of TVC, every three years.
- b) At the time of nomination, the appropriate Government shall give preference to persons who have demonstrated experience in working on market planning and street vending.
- c) Every such representative shall hold membership of the TVC for a period of three

years.

Nomination of non-Government representatives

- d) The local authority shall publish a notice calling for applications for membership of TVC, on its website and in any prominent newspaper published in the local language of the area. A copy of the notice shall also be put up in any conspicuous place in the local market or markets under the jurisdiction of the local authority.
- e) The aforesaid notice shall contain, amongst other things, the date of publication of notice, prescribed form for the application, the last date for submission and the manner of submission of the application.
- f) The aforesaid notice shall be published thirty days prior to the last date for the submission of applications for membership of TVC.
- g) Any person, being a member of any association of street vendors, market association, traders association, non-governmental organization, community based organization, resident welfare organization and bank, may apply for membership of TVC.
- h) The local authority shall seek information, with respect to, particulars of the applicant and details of work experience, particularly in the area of market or markets and street vending within the jurisdiction of the local authority, and such other information as it may deem fit.
- i) On submission of the application form, the local authority shall allot a unique application number and communicate the number to the applicant.
- j) The local authority shall give preference to applicants demonstrating experience

in market areas falling within its jurisdiction and active engagement with the practice of street vending.

- k) The local authority shall ensure that the number of members nominated, including non-government organizations and community based organizations, shall not be less than thirty percent.
- l) The local authority shall record in writing reasons for accepting or rejecting each applicant.
- m) The local authority shall publish the aforesaid information and also the list of nominated members of TVCs on its website, within thirty days from the last date for submission of application forms for members of TVCs.
- n) Every such member shall hold the membership of TVC for tenure of three years.

Procedure for election of street vendor representative

- o) The local authority shall issue a notice, every three years, calling for election of street vendors by the street vendor associations.
- p) Every notice shall state the total number of street vendors to be elected and the street vendor associations designated to hold the elections.
- q) The designated street vendor association shall forward the list of elected vendors to the local authority.
- r) The local authority shall appoint the elected vendors as members of the TVC.

Term

The tenure of the Town Vending Committee shall be three years.

Group C

Conduct of business (Sections 23)

(1) 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 discharge such functions, as may be prescribed.

(2) Every decision of the Town Vending Committee shall be notified along with the reasons for taking such decision.

- a) The Town Vending Committee shall meet at least twice every four months.
- b) The Chairman of TVC shall give a notice containing the date, time, venue and agenda of the meeting, to each member of the Committee, at least two weeks in advance.
- c) 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 weeks of receipt of such notice. Thereafter, the Chairman may issue the following orders:
 - (i) Issue a warning to the concerned member; or
 - (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.
- d) Every meeting of the TVC shall be conducted in the presence of at least seventy percent of the total members, and in no case it shall be conducted with less than twenty five percent of the members elected as representatives of street vendors.

- e) Each meeting shall review the progress and issues faced in the implementation of the Scheme for Street Vendors, and any other issue as it may deem fit.
- f) Every decision taken with respect to the implementation of the Scheme for Street Vendors shall be affirmed by majority of the members present at the meeting.
- g) The Chairman shall ensure that the minutes of each meeting are recorded.
- h) The Chairman shall ensure that the minutes of each meeting are published on the website, within one month from the date of the meeting.

Association with other persons (Section 24)

(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 associated under sub-section (1) shall be paid such allowances as maybe prescribed.

- i) The Chairman, in consultation with other members of the TVC, may choose to temporarily associate with any person for such period and for such purposes as it may deem fit.
- j) Such person shall be appointed in an advisory position only.
- k) Such person shall be paid such allowances as the Chairman may deem fit.

Maintenance of records of registered street vendors (Section 26)

(1) Every Town Vending Committee shall publish the street vendor's charter specifying therein the time within which the certificate of vending shall be issued to a street vendor and the time within which such certificate of vending shall be

renewed and other activities to be performed within the time limit specified therein.

(2) Every Town Vending Committee shall maintain up to date records of registered street vendors and street vendors to whom certificate of vending has been issued containing name of such street vendor, stall allotted to him, nature of business carried out by him, category of street vending and such other particulars which may be relevant to the street vendors, in such manner as may be prescribed.

(3) Every Town Vending Committee shall carry out social audit of its activities under the Act or the rules or the schemes made thereunder in such form and manner as may be specified in the scheme.

Record of street vendors

- a) The TVC shall maintain updated records of registered street vendors.
- b) The aforesaid record shall specify the name of such street vendor, stall allotted to him, nature of business carried out by him, category of street vending and any other particulars which may be relevant.
- c) The TVC shall update the aforesaid record every three months.
- d) The TVC shall publish the aforesaid updated record on the website.

Social Audit

- e) Every TVC shall constitute a social audit unit for the purposes of carrying out social audit under Section 26 (3).
- f) The social audit unit shall be an independent body. The Chairman shall enter into an MOU with the social audit unit, which will consist of resource persons and key stakeholders, for the conduct of social audit.

- g) The social audit unit shall comprise of:
- (i) Resource persons drawn from civil society organizations who have experience in sustainable planning of market area(s) and strengthening and establishing rights of street vendors.
 - (ii) Street Vendor Social Auditors drawn from street vendors working in the particular market area, where such street vendor is not a member of the TVC.
- l) The social audit shall be carried out at least once a year. The schedule for conduct of the social audit shall be decided at the beginning of that month, jointly by the social audit unit and the TVC.
- m) The TVC shall provide details of all relevant information, at least a fortnight before the social audit process commences. This shall include:
- (i) Scheme for street vendors.
 - (ii) Status of implementation of the Act and the Scheme for Street Vendors.
 - (iii) A record of the minutes of the meetings of the TVC conducted in that particular year.
 - (iv) Record of all registered street vendors.
 - (v) Record of appeals made before the local authority under Section 11.
 - (vi) Record of all grievances/disputes brought before the Dispute Redressal Committee under Section 20.
 - (vii) Record of the total number and details of evictions and confiscation of goods and relocation of street vendors taken place in that particular year.

(viii) Record of social audit reports, if any, taken place previously.

- n) The social audit unit shall conduct meetings and focused group discussions with street vendors on various aspects of the implementation of the Act and the Scheme.
- o) The social audit unit shall record in writing grievances of street vendors on any issue faced by them.
- p) At the culmination of the social audit process, the social audit unit shall record its findings in writing.
- q) The social audit unit shall hold a social audit public meeting at the TVC office. TVC members and representatives of the local authority shall attend the meeting. Street vendors of the particular area and other persons from the public may participate in the meeting. The social audit unit shall read out its findings at the meeting. Street vendors shall be encouraged to testify and the TVC shall respond to each of the issues identified in the social audit by giving clarification and/or explanation to the affected party and the public as to why a certain action was taken or not taken.
- r) The social audit unit shall give adequate notice of the social audit public meeting by way of a public notice.
- s) The local authority shall on each finding of the social audit in cases of gaps, lapses or deviations fix responsibility and shall take immediate corrective or disciplinary action. In case of a dispute, an administrative enquiry shall be conducted by the local authority and action taken accordingly in the shortest time possible and in any case not later than a month.
- t) The statutory requirement of conducting social audit shall not preclude any independent initiative to carry out additional social audit. Social audit reports

submitted in this process shall form part of the record and shall be responded to by the TVC. Where shortcomings are found immediate action shall be taken as per these rules. The social audit report as well as the action taken report shall form part of the record and shall be public information.

- u) The budget for conducting social audit shall be allocated from amongst the administrative cost allowed for TVC.

Publishing of Scheme for Street Vendors under Section 38

1) For the purposes of this Act, the appropriate Government shall frame a scheme, within six months from the date of commencement of this Act, after due consultations with the local authority and the Town Vending Committee, by notification, which may specify all or any of the matters provided in the Second Schedule.

2) A summary of the Scheme notified by the appropriate Government under subsection (1) shall be published by the local authority in at least two local newspapers in such manner as may be prescribed.

- a) The summary shall contain provisions with respect to all matters contained under the Second Schedule.
- b) The summary shall be published, in the local newspaper and on the website of the local authority, within one month from the date of its notification.