

Shop Licensing in Bangalore: The Licence Raj!

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“Paying bribe or hiring middlemen to do my job is a way of life for me” says Ramappa, a sweetmeat shop owner, in Yadur market, Bangalore city. Practicing the path of illegality day in a day out is a way of life for most of Bangalore’s small shop owners. This paper documents the difficulties in the opening, renewal and running of a small shop in Bangalore and the different agencies involved in turning this process into a never ending odyssey. Who is to blame for the corrupted legal machinery, the unaccounted money transactions carried out in our city? Is it entirely the fault of the lethargic government system or are the shop owners to blame as well?

According to the Karnataka Municipal Act, 1976, a Trade Premises means any premises used or intended to be used for carrying out any trade.¹ All shops to operate in the city must procure a trade licence.² The revenue collected from this forms a huge chunk of the Bangalore Mahanagara Palike’s³ (BMP) budget. Till 2003, opening a shop was a centralised, unending process controlled by the BMP. This meant, no information to the public as to where and how to proceed, or the kind of documents required to be attached when one wanted to procure a trade licence. However, after 2003, the Simplified Trade Licence Procedure was introduced by the BMP to liberalise the trade licence procedure and one of the aims in liberalising was to avoid middlemen and curtail the wrath of licensing inspectors. The Simplified License scheme is thought to be a problem free scheme to benefit shop keepers as there is a clearly defined procedure of what is needed to be done, what documents are to be collected, where to go, whom to contact. We set out on an expedition to find out if the process has benefited the shopkeepers or if there are still any loopholes present.

The other agencies involved in regulating the activities of shops are the Health Department of the BMP, the Labour Department, The Legal Metrology or the Weights and Measures Department and finally the Commercial Excise Department.

Opening a shop

The Health Department is in charge of granting two licences: The Trade Licence and the Food Licence. The former “is a certificate/document which grants you the permission to carry on the particular trade or business for which it is issued. It is an offence to carry on a specified trade without obtaining a valid licence from the BMP”. The food licence is to be procured by all eating establishments (manufacturing and selling food items), like Hotels, Restaurants, Bakeries, Sweetmeat stores. The Trade licence is enforced through the Karnataka Municipal Corporation Act, 1976 while the food licence is enforced through the Prevention of Food Adulteration Act, 1954. This certificate is in addition to the Trade Licence. One should apply for a trade licence in the following circumstances:

1. Starting a new Business
2. If running a trade and do not have a license, then it is required.
3. Renewal of Licence if your present license has expired.

The list of documents required to procure a trade licence are:⁴

- Trade Premises Layout Plan: area one will be using for the trade showing details of location, approach and distance from public sewerage, lavatories, urinals located in the vicinity.

¹ Karnataka Municipal Corporation Act, 1976.

² Except exempted trades such as Newspaper or magazine shops, vegetable stores, milk dairies.

³ Previously known as the Bangalore City Corporation.

⁴ Source: Simplified Trade Licence Procedure

- Owner's consent letter: No objection certificate (NOC) from the owner in whose premises the trade is to be carried out.
- Neighbour's consent letter: NOC from the neighbours of the premises in which the trade is to be carried on.
- Tax paid receipt: Every time you pay your tax, you receive a receipt for the amount paid. With the application for the fresh trade license you need to attach the receipt.
- Katha Extract: Account of assessment of a property recording details about your property such as size, location, built up area and so on for the payment of property tax.

The Trade Licence procedure was decentralised five years ago, thus Bangalore is divided into three zones, North, South and West, which are further divided into wards. Bangalore has a total of 100 wards. A medical officer (MO) oversees the work in as many as three to four wards. An MO is in charge of registering shops, trades and issuing trade and food licences in the respective ward offices that the particular shop falls into.

The Process

The above documents along with the complete application form will need to be submitted along with the specified fee (all this is clearly mentioned in the book) to the respective Citizen Service centres or the ward offices. They check if the application form is complete and the right amount of fee is paid and then forward it to the respective Medical Officer. This is the tricky part. This is the phase where the application form will be clearly screened: whether the documents attached are genuine, and complete. If convinced of the authenticity of the documents, the MO will dispatch his subordinate officers to inspect the trade premises. Here they check the premises for any illegality, such as encroachment of land in front of the shop, the building structure, any dispute between the owner and the tenant, and the cleanliness of the shop and the immediate area around the shop (especially in case of the eating establishments). Subsequently, the inspectors report back to the MO and after a final evaluation, the trade licence is approved and handed to the trader who will have to prominently display it in his trade premises. The MO of the Gandhinagar area stated that 70% of the shops in his ward are licensed. This whole process is required to take place is 15 days. So does this juxtapose perfectly with the ground reality? Yes and No.

In Bangalore a trade licence can only be procured before the trade has been started. Bangalore is different from other cities in this particular respect. In Bangalore, the process we notice has considerable speeded up since five years. Earlier, it would take a minimum of 6 months and unnecessary delay in the form of harassment in the preliminary stages itself. There is a still a backlog of application forms to be approved, and a sweetmeat store owner let us know that the application takes up to 3 months to finish. Most of the shopkeepers we interviewed opined that they pay the stipulated fee and some amount over that depending on his capacity. Thus, the costs of illegality appear in the form of delay in procuring a certificate, paying bribe to the officials to speed up the process or just for no reason at all and the inspectors who make regular visits to check the shops in their respective wards. Most sweetmeat shopkeepers I spoke to complained about the frequent harassment by the Health Inspectors. They walk into a shop, demand something in kind or find something ludicrous to fine him with, such as flies hovering around in the shop. They fine him without a challan most of the time and he complies in order to be in their good books.

Interesting Point!

Hosur Thimanna, a Roti store owner, runs a small but popular food joint in the Rajajinagar, Bashyam circle market. The cost of illegality could run up to Rs 10,000 annually. I plodded him on to give me a break up of the figure, but I succeeded in getting to know that he is harassed most by the Health Inspectors. They have stopped accept bribe in kind now and have resorted to money, for they all seem to be suffering from high BP or sugar. He does not receive any challan for the amount he has paid to them. But he avowed that he commits certain errors such as leaving the lid open on food items being sold and selling certain sweets which do not have the manufacture or expiry date stamped on it. He accepts his faults but does not think they are so grave as to charge him Rs 500 and more each time they visit. What exasperates him most is the absence of a challan each time he is fined.

Food Licence

Form A under the Prevention of food adulteration Act, 1954 is to be filled. The fee is anywhere between Rs 10 to Rs 115 for different trades. Subsequently, food inspectors (numbering upto 10 for the whole of Bangalore city) visit the premises to check for any adulterated or misbranded food.

Food and Adulteration Act, 1954.

Section 7 of the the Act prohibits the manufacture and sale etc of certain articles of food:

1. any adulterated food.
2. any misbranded food.
3. any article or food for the sale of which licence is prescribed, except in accordance with the conditions of the licence.
4. any article of food the sale of which is for the time being prohibited by the Food (Health) Authority (in the interest of the public).
5. any article of food in contravention of any other provision of this Act or any rule made thereafter or any adulterant.

A food inspector who is under the direct supervision of the Chief Health Officer, BMP will conduct an on-site verification to verify its cleanliness, exhaust facilities, environment around the premises, and then grant the shopkeeper a food licence.

Opening a shop in a Residential area

A short stay in Bangalore would tell us that there are shops everywhere in this city. One wonders whether there is any differentiation and demarcation between Residential and Commercial areas. Shops prop up in our backyards, in garages; in fact in every nook and corner. The Simplified Trade Licence Procedure has specified the trades which could open in residential area. They are Bakeries, Aerated water and fruit beverage stalls, flour mills, automobile and bike workshops, petrol and diesel filling stations, coffee grinding machines, provision stores. But how does one explain the other stores such as the mobile handset sales, VCD/DVD renting, clocks manufacturing/sales. However, opening a shop in a residential area does not require separate documents to be filled. The application process for a shop opening in a Residential area is no different from a shop opening in a commercial area. As long as one gets a NOC from the owner and neighbour, it is smooth sailing for all sop keepers having a store in a residential area.

Running a shop

The saga does not end with procuring a trade and food licence. The licence needs to be renewed every year or every five years, depending on the convenience to the shop keeper. The application form for renewal will be received from 1 February upto 1 March. After this date application will be received upto 31st march with a fine of 25% of the licence fee and after 1 April the fine will be increased to 50% of the licence fee. The licence could be renewed for five years by paying the consolidated fees for those five years, so that the shopkeeper saves the trouble of renewing it every year. We spoke to some shopkeepers on costs of illegality relating to renewal fees and all of them we spoke to replied that they did not pay anything extra while renewing. Most people prefer renewing annually, and fear to try out the new five year renewal scheme. However, the real test is running the shop. The following are some of the offences often committed by shopkeepers.

- 1) Encroachment in front of the shop is an offence under section 285 and is punishable under section 431 with a fine of Rs 100. This is a very common offence and the MO we spoke to informed us that there is no systematic fining system for offences committed. He and his subordinate officers fine them arbitrarily and issue challans. So depending on what do they fine them? Capacity to pay is a major determinant in fining them.
- 2) Filth around an eating establishment is an offence under Annexure 66 of the Karnataka Municipal Act, 1976. This is punishable the first time with Rs 1000, the second time with Rs 25000 and the third with Rs 5000. Retail shops are fined less with Rs 250, Rs 350 and Rs 500 respectively.

Like in many other states, the process of running a shop is further strewn with hurdles as one needs to be registered with the Department of Labour, the Department of Commercial Tax and secure a verification and clearance from the Department of Legal Metrology or the Weights and Measures. So how does a small shop owner zigzag through the various authorities and stay afloat.

The Department of Labour

The Department operates under the Karnataka Shops and Commercial Establishments Act, 1961 and Rules, 1963. The Act provides for the regulation of conditions of work and employment in shops and commercial establishments and other incidental matters. In layman terms, every shop will have to get itself registered under this Act and the Act's aim is to safeguard the interests of the employees and also the employer. The Act also includes details on the following:

- The Hours of work (Chapter III): No more than nine hours on any day and forty-eight hours in any week.
- Extra wages for overtime work: When an employee works more than nine hours a day or forty eight hours a week then he is entitled to extra wages at twice the rate of normal wages.
- Interval for rest: No person shall work for more than five hours before he has had an interval of rest of at least one hour.
- Opening and closing hours: fixed by the Department of Labour as: 8:00 am to 11:00 pm. But the other key player, the Bangalore city police have a definite say in the matter. This is still to be researched. When we spoke to the certain police officials, they opined that the Karnataka Police Act, 1963 does not contain any specific mention as to the opening and closing of shops and commercial establishments. They just enforce the timings set by the Department of labour and BMP.
- Weekly holidays: once a week closed.
- Annual Leave with wages: These are of different types such as the Maternity leave for women (for any number of days not exceeding twelve weeks), paid leave not exceeding 12 days for 12 months of service

- Prohibition of employment of children (Chapter VI-section 24)- No child shall be required or allowed to work in any establishment.
- Prohibition of employment of women and young persons during the night: Section 25-

The procedure for Registration

The Department of Labour is not decentralised; this means that all the small shopkeepers will need to procure the Form A from the Labour office on Bannerghatta Road, which is in one corner of Bangalore city. This form needs to be filled with the following details:

- The name of the employer and manager, if any
- The postal address of the establishment
- The name, if any, of the establishment
- Such other particulars as may be prescribed.

The filled form with the prescribed fee will need to be paid at the office after which the certificate will be awarded in a few days. This form is issued for a period of five years. The fee list for registration is as follows:

- No employee- Rs 250
- 1-9 employees- Rs 250
- 10-19 employees-Rs 2500
- 20-49 employees-Rs 6250

Key observations

- 1) The shopkeepers will have to get the shop registered within 30 days of commencement of the trade and not before the trade was established.
- 2) There are a total of 26 Labour Inspectors operating in Bangalore city. This is a ludicrous for a city the size of Bangalore especially if the labour inspectors have to cover a distance of more than 20 kilometres every day from the main office on Bannerghatta Road. Since their work timings are from 10:00 am to 5:30 pm, they fail to check if Bangalore's shops are following the closing time deadline. Each one checks around 40 shops a day. One can infer thus, that an inspector could only check a particular shop every one and a half years.
- 3) If a shop keeper fails to register himself with the Department of Labour, he gets a warning in the form of a showcase notice, giving him an extension of a week or 15 days to get himself registered. In case he still evades registration, a case is filled before the magistrate in the high court and will penalise him. Thus, the inspectors do not issue a challan to the shopkeepers directly and fine him for the offence committed. This includes other offences such as closing a shop after 11 pm, paying an employee less than the minimum wages fixed by the state government (Rs 2276 per month).
- 4) The Executive labour inspector we spoke was of the opinion that 70% of the shops in the city are registered. But this information is not based on any dependable statistics.

Middlemen to make life easier!

Hosur Thimanna employs nine labourers and has to pay Rs 250 as registration fee to get himself registered under the Shops and Commercial Establishments Act, 1961. He decided to pay a middleman Rs 500 to get him the certificate and thus had it ready in three days and in addition to this, it saved him the time and money spent on frequent and inconsequential trips to Bannerghatta Road.

Unique to Bangalore are its countless Darshinis (eatery joints selling typical south Indian fast food such as Idlis, Dosas) which are to be found at every street corner. These employ young boys below the age of 14 as its cleaners and waiters. This is in direct violation of section 24

(Prohibition of employment of children). When I spoke one of an Executive Labour Inspector, Appundalikarao, he informed me that they have filed numerous cases before the high court and have warned many others, but there are so many darshinis, that it is tough task to nab them all.

The Department of Legal Metrology

The Department has the following aims:

- 1) Maintenance of accuracy in all weights and measures used in Trade, Commerce and Industry.
- 2) Protection of the Consumer Interest.
- 3) To ensure correct quantities for the prices paid.

The above goals are enforced and implemented through the:

- a. The Standards of Weights and Measures Act, 1976.
- b. The Standards of Weights and Measures (Enforcement Act, 1985.
- c. The Karnataka Standards of Weights and Measures (Enforcement) Rules, 1988.
- d. The Standards of Weights and Measures (Packages Commodities) Rules, 1977.
- e. The Standards of Weights and Measures (General) Rules, 1987.
- f. The Standards of Weights and Measures (Approval of Model) Rules, 1987.
- g. The Standards of Weights and Measures (Inter State Verification and Stamping) Rules, 1987.
- h. The Standards of Weights and Measures (Numeration) Rules, 1987.
- i. The Standards of Weights and Measures (national Standards) Rules, 1988.

In addition to the aims, "The citizens charter 2001: A Charter of Rights" lists out various offences. Some of the key offences include:

1. Use of weights and measures other than those prescribed under the rules.
2. Manufacture, repair and sale of weights and measures without license.
3. Use of weights not verified and stamped.
4. Non-display of certificates issued by the dept.
5. Pre-packed community, whether it is manufactured intra state, inter state and imported shall not be sold, distributed, delivered, displayed or stored for sale unless the package complies with the provisions of the Act and the Rules.
6. Selling any article less than the quantity contracted for or rendering any service less than the service contracted for or buying any article in excess of the commodity contracted for or obtaining any service in excess of the service contracted for.
7. Selling or delivering rejected weights and measures.
8. No retail dealer, manufacturer, packer or other person shall obliterate, smudge or alter the retail price (MRP) indicated on the package or on the label affixed thereto.
9. No package shall be sold, delivered or displayed for sale unless it contains the declared quantity on it or the label affixed thereto.

The process of verification and stamping of weights and measures

Most sweet shops, vegetable sellers use weights and measures to weigh the products they are selling. These weights and measures, through ware and tear and through tampering usually decrease in weight. Thus, they are verified and stamped annually and are checked on a monthly basis. The Assistant Controller or Inspectors will make annual verifications to all shops using weights and measures and check to see if the weights used by the shop keeper comply with the standard weights and measures. If not, he will be asked to bring his weights and measures to the respective ward office where they will be corrected and stamped. In addition to this, the shopkeeper will have to take his weights and measures to the ward office for routine check up. This should be carried out free of cost.

Ground scenario:⁵

When the shop keeper takes his weights and measures to the ward office for correction he is asked to wait or make successive trips back and forth till he gets fed up. Instead an easier method confronts him: There are middlemen who are willing to correct weights (even tamper with them by reducing the actual weight of the iron to benefit the vendor) and give him a challan from the ward office. So these middle men are hand in hand with the officials and inspectors themselves. For this, the shop keeper saves himself valuable time, but will have to shell out some bribe which will be definitely more than the "verification fee" charged by the officials.

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4. any article of food the sale of which is for the time being prohibited by the Food (Health) Authority (in the interest of the public).
5. any article of food in contravention of any other provision of this Act or any rule made thereafter or any adulterant.

Method of tampering with the weights: Illegal

The vendor uses the middleman to tamper with the weights to suit his purposes. This is how. If the weight actually weighs 5 kgs, and through ware and tear has decreased in weight, he will ask the middle man to reduce the weight of the iron measure by a kg or kg and a half. In every iron weight used normally by vegetable vendors, in sweet stores etc, there is a vent on the hind side of the weight. This is chipped further inwards to reduce the weight of the iron. Thus, the actual weight of the iron has reduced but it is stamped as 5 kgs. Who is to loose out in this? It is clear to all of us that the consumer, who has been absent in most of this debate, is to lose out the most for he pays for 5 kg worth product actually buying a product worth 3 kgs.

Correcting weights: Legal

Molten lead is poured in the vent/hole on the hind side of the weight to correct the weight and as this is being done a standard weight is placed on the other balance. When the two weights stand equal, the corrected weight is stamped and thus corrected.

Department of Commercial Tax

The main commercial tax office situated on K.G Road is an archetypical example of Babudom at work as one official sent me to another, till I found out at the end of a one hour whirlwind trip up and down four floors that this office does not issue tax forms for registration. The rules are enforced through the Karnataka Sales Tax Act 1957.

The following are the legal measures:

- Section 10 (i): Registration of dealers, commission agents etc: Every dealer whose total turnover in any year is not less than (two lakh) rupees shall and any other dealer may, get himself registered under this Act.

⁵ Source: Ramanna, sweetmeat shopkeeper, Yedure Market, Bangalore.

- Section 10 A (i): Procedure for registration: An Application for registration under Section 10 shall be made to such authority, in such manner and within such period as may be prescribed and be accompanied by a fee of five hundred rupees.
- (ii) If the prescribed authority after making such enquiries as it may consider necessary is satisfied that the application is in order and that the particulars furnished therein are correct, it shall register the applicant and issue to him a certificate in the prescribed form.
- The registration will have to be done in 15 days.
- Section 26: Nature of accounts to be maintained by dealers and licenses: Every registered dealer and every person liable to get himself registered under the Act, shall keep and maintain a true and current account of his daily transactions in any of the languages specified in or under section 2b, showing the goods produced, manufactured, bought, and sold by him and the value thereof separately together with vouchers and bills.

The shopkeepers we spoke to refused to divulge any information on the tax inspectors and what they check for. Thus, I had to speak to an Assistant Commissioner, who was of not much help when it came to describing the ground reality.

The Process of Registration

The application form can be procured at any of the zonal offices of the Commercial Tax Department. The process is completely decentralised now. The Application form should be filed at the concerned sales tax office and is verified by an Assistant Commissioner or Commercial tax officer (CTO) who usually overlooks the application process of small shops. Below are the list of documents needed to get oneself registered, after which the shopkeeper will have a KST and if he buys and sells goods from other parts of the country, then he is needed to have a CST number.

Form 1- Registration form

- Proof of place of Business
- Own premises or rented premises
- Proof of Residence
- PAN Number (optional)
- Details of Bank Account
- Details of Movable/Immovable property
- Details of a Partnership deed, in case of partnership
- Photo of Dealer, Partner.

Previously, a lot more documents had to be produced but it has been simplified now to benefit the trader. Once these documents have been produced along with the form, a CTO will visit the premises, check the Ledger book, the Account book, the Day book, bills of sales and purchases and will give his report within 10 days. This done, the Assistant Commissioner, will take a look at the report and will register him within 15 days.

Form 3- Statement of monthly turnover. This form should be filled in and submitted before the 20th day of the following month. The statement of monthly turnover is filled by those whose turnover is more than 2 lakh a year. They will thus keep an account of their monthly turnover and pay the required tax at the end of the year.

Form 4 – Return of Turnover: This form will need to be filled carefully by the shopkeepers as it is the annual turnover. To do so, they have to maintain correct books of accounts, day book which contains the day to day transactions, the ledger which contains the purchase and sale of goods. They will be apprehended if they are making purchases without purchase

bills and selling without sale bills. A case was shown to me when this small time jeweller was evading 3 lakh worth tax by making bills on loose sheets of purchase and sale. But the intelligence bureau of the tax department nabs such people in no time.

The Assistant commissioner informed us that most often, small shopkeepers practice second sales, thus the tax to be paid on these will be less than first time sales. Also, the tax evaders are usually big wigs and not small shopkeepers. He refused to come out and openly state that tax inspectors harass shopkeepers.

Penalties

If one does not file his returns, after that, a penalty of 2% interest on the tax is fined in the first 10 days. Any belated payment after this, would cost him a heavy fine of one and a half times the tax.

Tax exemptions for certain trades

Those traders whose turnover is less than two lakh a year will not be required to get themselves registered or pay tax. Petty shops such as pan shops, coffee and tea stalls. There are those trades identified by the commercial tax department which are privileged and exempted from paying tax. They are silk traders, vegetable vendors, book stores, stores selling milk products.

Reforms

- Grass Root Change: Bangalore is a step ahead of other states in liberalising its trade licensing procedure. But we believe not enough is being done on the ground to ease out the entire procedure. It is clear that the simplified trade licence procedure has reduced the hassle for a trader but the key to easing things out lies with the inspectors. Unless, we see a serious clamping down on inspectors from the various departments sucking the livelihood out of shopkeepers, we see no end to the harassment.
- Mindset change: This we believe is a bit far stretched but in order to see things changing on the ground we need more traders willing to fight the existing system. The Inspector Raj will thrive, if we have all the traders working for personal gain. Is Adam Smith's way the best way?⁶

⁶ Economics, David Begg, Mc-Graw Hill Book Company, pg 9. Adam Smith: The Wealth of Nations (1776): 'The Invisible Hand is': "It is the pursuit of self interest, without and central direction, which could produce a coherent society making sensible allocations".