

Note on National Policy for Urban Street Vendors*

Introduction

Street vending as a profession has forever been in existence in India. Some studies estimate that street vendors constitute approximately 2% of the population of a metropolis. The total number of street vendors in the country is estimated at around 1 crore. Urban vending is not only a source of employment but also provide '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. In this context, the Ministry of Urban Development & Poverty Alleviation, Government of India prepared a National Policy for Urban Street Vendors in 2004.

Definition

As per the policy, 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 head load). The term urban vender 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.

Objective of the Policy

It is to provide and promote a supportive environment for earning livelihoods to the street vendors and to ensure absence of congestion and maintenance of hygiene in public spaces and streets. Specific objectives of the policy are to give vendors *legal* status; to *facilitate* with hawking zones in the urban development/ zoning plans; instead of imposing numerical limits on access to public spaces, to provide nominal fee-based *regulation* of access; to treat them as an integral and legitimate part of the urban *distribution* system; to promote *self-compliance* amongst them; promote their *organization* to facilitate their empowerment; to set up *participatory mechanisms* with their representation; rehabilitation of child vendors and schooling; to promote *social security & financial services*.

Elements of Policy

a) *Planning Norms* completely disregard the formation of natural markets, whereas they should be supportive of such markets. *Demarcation of vending zones* should take into account the natural propensity of the vendors to locate in certain places in response to demand of goods/services. If they exceed the number of spaces available, excess may be regulated by fees or lottery and not discretionary licenses. Mobile urban vending should be allowed in all areas except the 'no vending' zones. Outgrowths of city/town should have adequate provisions for them. Designation of such zones must be accomplished by a participatory process by a Town Vending Committee apart from civic or police authority. The committee should include weekly markets and also ensure continuation and up gradation. *Quantitative Norms* refers to provision of enough space designated to such markets, i.e. 2%-2.5% of the total city population. *Qualitative guidelines* refer to the facilities provided by civic authorities.

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b) *Regulatory Process* – The traditional licensing system and associated rent seeking should be done away with. A system of *registration* of hawkers and non-discretionary regulation of access to public spaces in accordance with service should be adopted. The *Registration power* would be vested with Town Vending Committee/Ward Vending Committee at a nominal fee by the ULBs. The process should be simple and registration should be renewed after every year. The vendors will be issued Identity cards. The Committee would include representatives of hawkers, planners, police, local councilors, resident welfare associations, traders associations and municipal functionaries. There should be a direct link between hawkers and ULBs for collection of (revenue) monthly fee for access to various services.

c) *Monitoring Mechanism* – The Town/Ward Vending Committee to monitor the hawking activities and the quality of services provided and take corrective actions if required.

d) *Relocation and Rehabilitation* – No street vendor should be forcefully evicted. They should be relocated only where the land is needed for public purpose of urgent need. They should not be evicted in the name of ‘beautification’ of the cityscape.

e) *Municipal and Police laws* – Required Interventions: Under Section 283 of the Indian Penal Code (Punishable offence is the nuisance caused by obstruction) and in Section 34 of the Police Act (obstruction should not be caused by animals, vehicles, packages, etc. for unreasonable length of time) are the main deterrents to this profession. Here the contradiction is between legal ‘licensed’ vendors and ‘illegal’ obstruction resulting in physical eviction of even licensed vendors. The policy recommends that Central Government and all States should amend the Police Act and Rules and add, “Except in case of street vendors/hawkers and service providers with certain reasonable regulations.”

f) *Self-Regulation* – Besides, monitoring by external authorities street vendors should practice Self-Regulatory especially with respect to hygiene and Quality control; cleanliness; number of vendors to operate in specific areas.

g) *Action Plan* - A comprehensive survey of street vendors to build an adequate database especially in large and medium cities should be undertaken by the State Governments.

h) *Others* - Since street vendors have little or no access to formal sector financial institutions, they have to depend on private moneylenders borrowing at higher interest rates. Banks should be encouraged to extend credit to SHGs of vendors. The Vendor’s Association should be assisted by NGOs and under SJSRY Scheme for organizing SHGs, to create a financial interface between the vendors and formal sector financial institutions

Implementation of the policy in the Capital

In respect to the above mentioned policy, the Supreme Court on 23rd April 2008, Wednesday, set 31st August 2008 as the deadline for allotment of vending sites to about three lakh vendors in the capital. Therefore, the ambitious scheme of the MCD and NDMC regulating the vending and hawking activities in the capital is set to take off from September 2008.

The court accepted MCD’s submission for the three-tier grievance redressal system (ward vending committee – zonal vending committee – a tribunal headed by former Delhi High Court Judge, J.P.Singh) for those having complaints, but would not entertain individual complaints/grievances in this regard.

The existing hawkers were being asked to apply for fresh license to get identity card because the Delhi Police wanted their details for security reasons regarding terrorists. There was no complete record of old *tehbazari* holders. All this was also necessary because under the policy the maximum number of *tehbazaris* could not be more than 2.5% of a city's population (*Satya Prakash, 2008*).

Issues:

- Despite Supreme Court judgments declaring that street vending is covered under the fundamental right to livelihood clause of the Constitution, municipal agencies all over India have managed to keep the vast majority of vendors illegal and insecure by ensuring a gross mismatch between the number of vendors on the streets and those who managed to secure licenses, (*Madhu Purnima Kishwar, 2008*).
- The New Policy acknowledges that the number of vendors in any area is determined by the footfall in the area and to keep numbers under check is through market mechanism rather than fixed quotas. It also endorsed the need to dismantle the existing License Quota Raj for vendors rather than merely announce a higher quota for licenses. However, the entire administration tried to sabotage the policy ordering more frequent clearance operations. Instead of declaring vending zones, the city administration started declaring large parts of the city (Delhi) as non-hawking zones, (*Madhu Purnima Kishwar, 2008*).
- Clearance Operations have become more frequent and more violent, even in small cities. While Special Economic Zones are being created in spite of stiff opposition, very few towns and city governments have made provision for Hawking Zones. The disregard for livelihood concerns of the urban poor is evident in the fact that the JNNURM does not even mention the need to provide space for micro enterprises in City Development Plans, (*Madhu Purnima Kishwar, 2008*).
- The Supreme Court failed to pay heed to pleas that if the hawker zones are created after the hawkers are driven away through police action, who will be given the vending sites in the still to be created Hawking Zones? (*Madhu Purnima Kishwar, 2008*).
- The local authorities and law officers insist that no family member except the one in whose name the license is issued will vend or carry on the hawking business. Mandatory attendance in Courts for alleged offences under the criminal law compels the hawker to lose the days earning (*Rani Advani, 1998*).
- Illiteracy of hawkers and vendors helps corrupt and baton-wielding law officers get away, because it becomes difficult to identify them. In the same context, lack of access to legal services and courts, add to the problems of hawkers and vendors (*Rani Advani, 1998*).

References

1. Special Issues on Urban Informal Sector (NRCUP), 2006.
2. Civil Appellate Jurisdiction, The Supreme Court of India, Nos. 4156-4157 of 2002.
3. Satya Prakash, *Hawker policy set to take off*, Hindustan Times, New Delhi, 23rd April 2008.
4. Madhu Purnima Kishwar, *License Quota Raid Raj for Cycle Rickshaws & Street Vendors – Need for a Bottom Up Agenda of Economic Reforms*, Urban Poverty Report (Draft) for the National Urban Poverty Report, India, GOI-UNDP Project ‘National Strategy for Urban Poor’, February 2008.
5. Rani Advani, *Legal Status of Street Vendors*, in Labour File, New Delhi, November 1998.