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SECRETARY
GOVERNMENT OF INDIA
MINISTRY OF HOUSING
& URBAN POVERTY ALLEVIATION
NIRMAN BHAWAN, NEW DELHI-110108

D.O. No. K-14014/1/2011-USD

November 25, 2011.

Dear Madam,

As you are aware the revised National Policy on Urban Street Vendors 2009 aims at fostering a congenial environment for the urban street vendors to carry out their activities smoothly and provide a mechanism of regulation of such activities in consonance with public interest. The revised Policy also underscores the need for a legislative framework to enable street vendors to pursue an honest living without harassment from any quarter. Accordingly, a Model Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2009 was drafted by my Ministry and forwarded to all States/UTs for taking a cue while legislating on the subject.

2. The progress in the enactment of law on street vending has been slow. In the meantime we have received continuous representations from civil society members, individual street vendors and their organizations to bring a Central legislation which would be uniformly and mandatorily applicable to all the States and UTs. This Ministry is currently working to evolve an effective and practical Central legislation for the protection of livelihood rights and social security of street vendors in consultation with all concerned stakeholders including State Governments. The Bill would be based on the following broad basic principles.

- Legitimate street vendors are protected from harassment by police and civic authorities.
- Vending zones/spaces be demarcated for street vendors. While demarcating, the principle of "Natural Markets" to be kept in mind.
- Adequate representation to street vendors and women in particular, be provided in the institutional structures created for ensuring proper implementation of the proposed law.
- A robust, effective and quick grievance redressal and dispute resolution mechanism is established.

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3. In this background, my Ministry is organizing one day "**National Consultation on Central Law on Street Vending**" on **December 23, 2011 in Silver Oak, India Habitat Centre, Lodhi Road, New Delhi**. I would like to request you to kindly participate in the National Consultation. I look forward to your esteemed participation and expert insight into the deliberations. A line in confirmation to your participation in the Consultation would be highly appreciated.

4. A Background Note on the proposed consultation is enclosed.

With regards,

Yours sincerely,


(**ARUN KUMAR MISRA**)

Ms. Aruna Roy,
Member,
National Advisory Council,
Government of India,
2, Motilal Nehru Place,
New Delhi-110 011.

Background Material for National Consultation on
Street Vendors Policy & Need for Central Law on Street Vending

1. Introduction

1.1 Street vendors form a very important segment of the unorganized sector in the country. 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, especially the common man.

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 meagre 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 Unorganized Sector, 2007 of the National Commission for Enterprises in the Unorganized Sector (NCEUS), suggest that the vendors' earnings 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. Their monetary problem is compounded by the fact that the vendors have scarce resources for their trade and they need to obtain credit by borrowing on a day to day basis. Most of the street vendors report having borrowed from money lenders who charge exorbitant interest rates – at 10% per day.

1.3 As we are moving into the 12th Five Year Plan with a strategy of faster and more inclusive growth, cities will have to play a key role in operationalising this strategy. Cities are about people, and people need space, shelter, infrastructure, services and employment. The country's economic growth cannot be sustained if the benefits of urbanization do not percolate to all the sections, especially the poor and downtrodden of the society. Street vendors constitute an important segment of the urban population at the bottom of the pyramid. It is estimated that 2% of the urban dwellers resort to some form of street vending – static or mobile. Street vending provides a source of self-employment, and thereby acts as a measure of urban poverty alleviation. It also acts as an instrument to provide affordable as well as convenient services to a majority of urban population. The small traders on sidewalks can considerably add to the comfort and convenience of the general public, by making available ordinary articles of everyday use of comparatively lesser prices. It has also been seen that the low to middle as well as middle income segments also patronize and use goods and services offered through street vending. Unfortunately, in some quarters vending is regarded as a nuisance and as encroaching upon sidewalks and pavements meant for public use. Despite the wide proliferation of the trades included in street vending, and its increasing acceptability in the social and economic fabric, there are very few proactive policy measures by States and ULBs to protect the street vendor from undue harassment from various quarters.

1.4 The undue harassment faced by Street Vendors is mainly because the city/planning authorities have not decided on the allocation of space and designated locations for street vendors. Experience of cities like Bhubaneswar indicate that development of vendors market by providing space to vendors at demarcated places

frequented by the general public can be the best form of urban poverty alleviation. Urban poor needs space for dwelling, working and vending. With allocation of places for vending to street vendors by the city/planning authorities, the vendors get access to sources of income and thereby can cross poverty line without any intervention from the government by way of provision of subsidy under any scheme.

1.5 The problems faced by street vendors are compounded by the fact that they do not have resources for trade and they need credit on a day-to-day basis. Credit is an important requirement in street vending, both to sustain existing activity and to upscale it. Facilitation of bank credit and financial inclusion of street vendors are important for a congenial environment to street vendors to carry out their vocation. It must be recognized that the street vendors constitute an integral and legitimate part of the urban retail trade and distribution system. If assisted with credit from banks, they will contribute significantly to local economic growth and vitality of urban economies.

1.6 Given the pace of urbanization and the opportunities presented through the development of urban areas, the growth of street vendor population is likely to have an upward trend. As cities develop and grow, the importance of street vending as an occupation can greatly increase provided States and Urban Local Bodies provide a conducive atmosphere to the street vendors through measures such as allocation of space, smooth regulation through Town Vending Committee with adequate representation from amongst street vendors, provision of amenities in vending zones and vendors markets, mobilization of credit and promotion of street vendors

association for self-regulation and harmonizing the interest of street vendors and of general public.

1.7 It is worth mentioning that the Hon'ble 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]

1.8 It is also noteworthy that the Hon'ble Supreme Court in its judgment dated October 8, 2010 in WP (C) No. 1699 of 1987 in the matter of Gainda Ram and others Vs. MCD and others has ruled that:

"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."

The Hon'ble Court has further ordered that:

"This Court, therefore, disposes of this writ petition and all the LAs filed with direction that the problem of hawking and street vending may be regulated by the present schemes framed by NDMC and MCD up to 30th June, 2011. Within that time, the appropriate Government is to legislate and bring out the law to regulate hawking and hawkers' fundamental right".

The Hon'ble Supreme Court in its judgment dated July 15, 2011 in the above case has ruled that :

"Since judgment of this Court has so far not been implemented inasmuch as appropriate legislation has not been enacted by the competent legislature, we direct the parties to maintain the status quo as it is obtained today."

The above judgments underscore the need for a clear legislative framework for street vending in the country urgently to eliminate ambiguities in the implementation of the National Policy on Street Vendors and harassment to them.

2. National Policy on Urban Street Vendors

2.1 Considering the significant contribution made by street vendors to the urban society as a whole, and more specifically to the marginalized and disadvantaged sections of society while earning their livelihood and also under the Constitutional obligation for protecting the right of this segment of population to earn their livelihood, the Ministry of Housing and Urban Poverty Alleviation, Government of India revised the National Policy on Urban Street Vendors, 2004 and brought out the National Policy on Urban Street Vendors, 2009 and circulated the same to all States/UTs for implementation. The revised National Policy on Urban Street

Vendors, 2009 aims at fostering a congenial environment for the urban street vendors to carry out their activities without harassment from any quarter and provide mechanism of regulation of such activities to avoid congestion on sidewalks and to ensure free flow of traffic on roads. The new Policy recognizes that practicing any profession or pursuing any occupation, trade or business is a right of every citizen. An important point brought to centre stage by the New Policy is that State Governments are required to take steps to restructure their Master Planning laws and City, Zonal and Local Area Plans to make them 'inclusive' and address the requirements of space for street vending. Master Plans must have "norms" for reservation of space for street vendors in accordance with their current population and projected growth. Instead of fixing a limit for vending space, the policy provides for city/town specific demarcation of 'Restriction Free Vending Zones', 'Restricted Vending Zones' and 'No-vending Zones' depending upon the ground realities of the cities/towns. Mobile vending is to be permitted in all areas unless designated as 'No-vending Zone'. The Policy advocates that the Local Authorities

promote week-end markets in public maidans, parade grounds or areas meant for religious festivals to facilitate street vending.

2.2 The Salient Features of National Policy on Urban Street Vendors, 2009 are:

- Clearly defines the role of Planning Authority to earmark space for street vendors - in Master Plan, Zonal Development Plan & Area Plan – duly take into account the formation of Natural Markets.
- Provides for simple and expeditious 'on the spot' registration of eligible vendors.
- Makes provision for vendors' markets/outlets to be developed by making space available to hawkers/vendors on a time sharing model so that a certain number of days or hours on particular days could be fixed for each vendor in a vending place on a transparent roster basis.
- Constitution of Town Vending Committee (TVC), with 40% of the members being street vendors themselves, in all cities/towns and wards (if considered necessary) to discharge the 26 functions which, inter alia includes:
 - undertaking periodic surveys
 - registration and issuance of Identity Cards
 - monitoring vending activities
 - assessing and determining maximum holding capacity of each vending zone, etc.
- The TVC should disseminate information pertaining to availability of credit from various sources, especially micro-finance and should link street vendors with the formal credit structures.

- Detailed Action Plans for implementation of the policy at the level of Government of India, State Governments and Local Authorities to be prepared.
- Provision for reservation for SCs/STs and giving priority to physically challenged/disabled persons in allocation of vending stalls/spaces.

3. Model Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2009

3.1 The National Policy on Urban Street Vendors, 2009 underscores the need for a legislative framework to enable street vendors to pursue an honest living without harassment from any quarter. Accordingly, a Model Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2009 was drafted by this Ministry and circulated to all States/UTs, requesting them to take a cue while legislating on the subject.

3.2 Salient Features of Draft Model Bill 'The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2009 are:

- It would be obligatory for the appropriate Government to constitute a Town Vending Committee (TVC) in each local authority, with 40% of the members being from street vendors. Ward Vending Committees be constituted, if so needed.

- There would be a fixed tenure of three years for the non-official members of the TVC. The appropriate Government may terminate their nomination earlier.
- The TVC would be responsible for identifying spaces for 'Restriction Free Vending Zone', 'Restricted Vending Zone', or 'No-vending Zone', assessing holding capacity of particular areas for vending, granting registration and issuing Identity card to vendors, monitoring vending activities etc.
- Every street vendor would be required to get registered with the TVC on prescribed fee. A person would be entitled for registration for one vending spot only. Registration would be renewed periodically.
- The Local Authority would frame necessary bye-laws for street vending apart from supervising and monitoring activities of the TVC. They would provide civic amenities in the vending zones. Fees/levies to be charged from street vendors would be fixed by the Local Authority in consultation with the TVC.
- It would be the responsibility of the Planning Authority to earmark adequate space for vending zones in the master plan/development plan, zonal plan, etc.
- Appropriate penalties would be imposed on the vendors by the TVC for offences relating to violation of the terms and conditions of vending.

4. Status of Implementation

4.1 Hon'ble Prime Minister has addressed the Chief Ministers of States for effective action to implement the National Policy on Urban Street Vendors and Model Bill, restructure their Master planning laws, earmarking 'vending zones' in Master/Zonal/local plans and ensure convergent delivery of schemes for the benefit of urban street vendors. Hon'ble Minister for Housing & Urban Poverty

Alleviation has also addressed the State Chief Ministers in the matter from time to time – especially for the enactment of law on street vending in the spirit of the judgments of Hon'ble Supreme Court.

4.2 Only Arunachal Pradesh has enacted the law so far. Maharashtra and Chhattisgarh have drafted Byelaws. Few other States are working on the legislation but the progress is slow.

5. Need for Central Legislation

5.1 The progress on state legislation has not been encouraging. Meanwhile, the Ministry has been receiving continuous representations from the individual street vendors and their organizations to bring a central legislation which would be uniformly and mandatorily applicable to all the states and UTs. The Ministry of Housing & Urban Poverty Alleviation has taken up the matter with the M/o. Law & Justice for legislative competency of the Government of India for Central legislation on urban street vending. As per their advice, the proposed legislation may be covered under entries 20, 23 to 24 of List III of the Constitution, if the pith and substance of the proposed legislation is such. The relevant entries are described below:

Entry 20 – Economic and Social Planning

Entry 23 – Social Security and social insurance; employment and unemployment

Entry 24 – Welfare of labour including conditions of work, provident funds, employer's liability, workmen's compensation, invalidity and old age pensions and maternity benefits.

5.2 Accordingly, the Ministry is working to evolve an effective and practical central legislation for protection of livelihood rights and social security of street vendors in consultation with all concerned stakeholders including State Govts. The draft bill would be broadly based on the following basic principles.

- Legitimate street vendors are protected from harassment by police and civic authorities through suitable legal provisions.
- Vending zones/spaces are demarcated for the street vendors. While demarcating the concept of “Natural Markets” to be kept in mind.
- Adequate representation to street vendors and women in particular, is provided in the institutional structures created for ensuring proper implementation of the proposed law.
- A robust, effective and quick grievance redressal and dispute resolution mechanism is established to address the issues of street vendors.

5.3 The draft central legislation namely ‘the street Vendors (Protection of Livelihood and regulation of Street Vending) Bill, 2011 has been prepared. Salient features of the draft Bill are mentioned below:

- Concept of “Natural Market” has been introduced. Natural Market has been defined as a market where sellers and buyers have traditionally congregated for more than a specified period for the sale and purchase of specific products or services and has been determined as such market by the local authority.
- No person shall carry on or commence the business of street vending unless he holds a certificate of registration. However, the persons engaged in street vending immediately before commencement of this act, may continue to do so for a period of 2 years for the date of such commencement and if he has

made an application for registration within the said period of two years, till the disposal of such application’.

- “Planning Authority” as designated by the State to make out a plan once in five years to promote a supportive environment for the vast mass of urban street vendors to carry out their vocation
- The street vending plans prepared by the planning authorities shall be submitted to the appropriate Government within a period not exceeding six months and the appropriate Government shall determine the planning norms for the street vendors and notify the street vending plans within a period of six months from the date of receipt of the plans from the planning authorities.
- The street vending plans, inter alia to include:
 - a) Earmarking of space for vending zones in master plan, development plan, zonal plan, layout plan and any other plan
 - b) Demarcation of vending zones specific to the requirements of the town or city after taking into account the existing ‘natural markets’.
- Town Vending Committee to be constituted with representation to local authority, planning authority, traffic police, local police, associations of street vendors, market associations, trade associations, RWAs etc
- Representatives of street vendors to constitute 40% of the members of TVC; 1/3rd of all TVC members shall be women.
- Provisions have been made for Registration of Street Vendors by TVC. TVC will grant certificate of registration to the applicant.
- Provisions for eviction of Street Vendors, their relocation and procedure for confiscation of goods.

- A street vendor shall be evicted or relocated by the local authority only when it has become necessary on account of public inconvenience.
- No Street Vendor shall be evicted or relocated by the local authority for the site allotted to him unless he has been given a sufficient notice for the same
- Dispute Redressal Mechanism - The TVC shall constitute a permanent sub-committee consisting of a retired sub-judge or Magistrate of second class or Executive Magistrate and such other persons having experience in natural market and street vending activities.
- Provision for prevention of harassment while legitimately carrying out vending activity.

In this background, this National Consultation is being organized to seek views/comments of various stakeholders including Central Ministries, State Government, NGOs, Academicians, Experts and Street Vendors' Organization in order to evolve an effective and practical central legislation for protection of livelihood rights and social security of street vendors. The Consultation will also take stock of the implementation of the National Policy on Urban Street Vendors 2009 and suggest measures to implement the same more effectively backed by an appropriate law.