

Street Vending and Indian Legal Panorama: Challenges and Solutions

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Abstract

Unfortunately, both before and after independence, street vendors have received unjust treatment from the legal system of states. Street vendors are very troubled, and are constantly exploited by the local authorities and the police, these authorities regularly harass the street vendors for extra income, and treat them very badly. If the street vendors do not meet the demands of the authorities, their goods are thrown on the ground and destroyed. Perhaps these officers of the administration do not understand the meaning of the word "dignity" written in the Preamble of the Constitution. The Street Vendors (Livelihood Security and Regulation of Street Vending) Act 2014 provides protection to street vendors regarding the right to livelihood, social security and regulation of street vending in the country. The objective of the Street Vendors Act is to protect the interests of street vendors and to regulate street vending activities. Mostly it is seen that the Municipal Corporation and the Police do not follow the Street Vendors Act, nor do they take action under the Act. Due to lack of administration, vendors have to pay money to police and municipal officials to earn their living, which is a curse even after 77 years of independence.

Keywords: Street Vending, Vendors, Rights, Constitution.

Introduction:

We all often come across street vendors who make a living by selling items used in day-to-day activities by standing or hawking at a shopping complex, local market or roadside. These vendors are not only earning their livelihood through self-employment but also play an important role in the country's economy by providing goods to consumers at cheap rates at their convenient place.

According to an estimate, there are about 15 crore people in the country who are directly or indirectly involved in street vending. Despite this, street vendors and hawkers have always been marginalized in the society. These small shopkeepers and hawkers, who earn their livelihood and create employment for others, are also deprived of all government welfare facilities like government loans, security insurance schemes etc.

Not only this, the government and administration also see them as adding to the problems of the city and as a threat to law and order. In the name of maintaining law and order, the administration often does things like destroying the businesses of street vendors, confiscating goods, misbehaving with vendors.

After a long battle fought by NGOs, civil organizations and social workers for the rights of street vendors, in March 2014, with the aim of protecting the interests of street vendors in urban areas and regularizing street vending activities. The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act was enacted and enforced.

Training of street vendors regarding law

There is no definite estimate of the number of street vendors in the country but according to different figures it is believed to be between 1.5 to 2 crores. According to an estimate of the law, it is necessary to reserve two and a half percent of the urban population for street vendors, which means that if we consider even two and a half percent of the urban population, then according to the 2011 census, there is 38 crore urban population in the country. Two and a half percent of this population is about 1 crore urban street vendors. But a large part of such a large population is not yet organically associated with any union or organization and this population is still not aware of the street vendors law. This simply means that they are untouched by their rights and welfare schemes. A large population of these are street vendors in small towns and vendors who roam around in colonies and residential areas, who often have to face action from the police and administration due to lack of knowledge of the law. It is the right of street vendors to know about the central law and state-wise rules and schemes, but no special steps have been taken by the government for this. Especially after the infection of Covid-19 in 2020 and the implementation of Pradhan Mantri Swanidhi Yojana, this scheme itself has been considered as the limit of welfare scheme for street vendors. It is necessary that all the street vendors working in the country should know about the Street Vendors Law and should know about the various sections of this law and the rights given to them.

Legal requirement at the time of eviction

The most important rights given to street vendors under the Street Vendors Act are: right to sell and right to rehabilitation. Eviction of street vendors from their selling area is a violation of both these main rights. Therefore, it is important that eviction of street vendors from their places

should be seen as a violation of the rights of street vendors and not as an action against encroachment by the administration. To understand the eviction of street vendors, it is important to understand Section 3 (3) of the Street Vendors Act. Eviction is a measure through which the administration prevents illegal street vendors from taking over the city space, as well as for civic sanitation and traffic management, or to prevent street vendors from selling in non-vending areas designated by the administration. Eviction is done by removing the vendors. There are many other reasons for eviction. Despite all these reasons, it is important to put forward the point that the situation before the law cannot be the situation after the law. For this, the necessary steps given in the law and the role of organizations become necessary to ensure that they are followed. The most important way to fight eviction is the law and equally important is the knowledge and understanding of the law for street vendors.

Advocacy from administration as per the guidelines of the scheme

Under Section 38 of the Street Vendors Act, the states were to come up with a scheme for street vendors within six months of the enactment, which would include all the subjects of the Second Schedule of the Act. Through these schemes, surveys to be conducted by TVC in cities, vending certificates to street vendors, method of rehabilitation, method of removal, social security, and all other facilities should be mentioned. The state can add more necessary issues to it in consultation with the local government and TVC. But at the basic level, this scheme should be clear on issues like survey, certification and eviction of street vendors and there should be fixed guidelines which should not deviate too much from the law. While the rules passed by the State are necessary to ensure compliance with the law, the scheme is necessary to ensure that the benefits of the law are passed on to the street vendors. Therefore it is very important to have important issues in the scheme. For example, in Section 6 (3) and 6 (4) of the National Capital Territory of

Delhi Street Vendors (Livelihood Protection and Regulation of Street Vending) Scheme 2019, all the guidelines related to the rehabilitation and eviction of street vendors are clearly written, so that Street vendors have a basic document on the basis of which they can demand their rights, but on the contrary, nothing has been clarified regarding rehabilitation and eviction in Madhya Pradesh Street Vendor Scheme 2020. On the contrary, no vending zones have been decided in the scheme itself. , which are against the provisions of the law. The thing to be understood is that in both Delhi and Madhya Pradesh, the scheme was introduced even before the formation of TVC, which is against Section 38.

It is important for street vendors to lobby the local government through the schemes passed because these schemes are made keeping in mind the activities happening at the local level and the conditions of the state. For this reason, it is important for street vendors to understand the guidelines of the schemes. For example, if in a TVC meeting the Chairman gives instructions for a survey without any consultation, then the elected members should tell him which issues need to be kept in mind as per the plan, and which documents may be required for the survey. Similarly, the qualifications of street vendors, instructions regarding the time of eviction or confiscation of goods, expenses incurred for getting the goods returned after confiscation, etc., everything should be clear in the plans. If these issues are not included then lobbying should be done to get these issues included.

Formation of TVC and functions of the committee

According to Section 22 of the Street Vendors Act 2014, all local governments will constitute Town Vending Committee (TVC) at all local levels on the basis of state wise rules in which 40% participation should be from elected representatives of street vendors. This committee will be

headed by the 'Corporate Commissioner', Chief Executive Officer or the head of the body as per the rules of the state. According to the law, the constitution of the TVC, its meetings, its rights, its powers, appointment of its members, and other necessary functions should be mentioned in the rules passed by the states. The concept of TVC has been put forward to ensure the rights of street vendors by bringing together all the important components related to street vendors and creating coordination among them. Therefore, it is most important that the guidelines issued in the rules passed in the states for the formation of TVC for street vendors should be in accordance with the law, in which the members of the TVC, the participation and membership of the street vendors in it, its powers and the duration of the meeting etc. are clearly spelled out. Are met by law. For example, in some states like Delhi and Jharkhand, the number of TVC members is 40% of the total members of the TVC and that too will be decided through elections, but in Orissa there is a provision to nominate only four street vendors. Similarly, in Bihar, there are instructions to form TVC through nomination instead of elections, whereas in Madhya Pradesh, elections should be held but even after 4 years of passing of the rules, TVC has not been formed.

It is also necessary to form a TVC because it is necessary for the street vendors to have a sense of ownership regarding their work and all the organizations, groups, unions and institutions associated with the street vendors should make the street vendors aware and make them understand the importance of this process. Could. It is impossible to follow the law without constituting TVC. The main reason for this is that important decisions cannot be taken without TVC. As per the law, the important functions of the TVC are to survey the street vendors as per the plan, allot them vending certificates as per the survey, determine the vending and non-vending zones, and prepare instructions to include new street vendors in the process. When TVC will decide almost all the issues related to street vendors, it is important that all the stakeholders

are involved in it and there is coordination among them, so that better implementation can be ensured.

Ways , in case the law is not followed

There is a huge difference between the existence of law and the observance of law. According to the 2020 report of the Center for Civil Society, rules have not been made yet in two states, while plans have not been made in seven states. This means that like other laws made for the urban poor and unorganized laborers in the country, the implementation of the Street Vendors Act is also very slow. Due to this kind of implementation of the law, a large section of the society has remained untouched from getting the benefits of this law for the last seven years. For example, in Delhi, rules were passed in January 2018, TVC was constituted in October 2019, scheme was passed in the same month, TVC meetings were held and the first survey started in December 2020. A total of 55,000 surveys were conducted till May 2021 but till July 2021, less than 200 have been approved. According to the law, if we consider 2.5 percent of the city's population as street vendors, then there are more than five lakh street vendors in Delhi, but as of now the survey has been conducted only 55000 means around 10%. And this is about Delhi where the implementation of street vendor law is considered to be the best in the country.

To enforce the law, it is important that street vendors know that there is a law for them that is not being followed. But except in big cities, or those oath sellers who are associated with any union or organization, there is no awareness about the law. In such a situation, the accountability of the government cannot be fixed. According to Section 33 of the law, this law will repeal any other law applicable to street vendors and this law will be considered supreme. Therefore, this law cannot be weakened by citing other laws. If this law is not followed, then no provisions have

been made regarding it, but in many cases it has been made clear by the court that TVC will take all the decisions related to street vendors and they should be formed soon.

Law for urban street vendors, then what about villages?

In Bhim Panchayat of Rajsamand district of Rajasthan state, between 2018 and 2019, street vendors started being removed continuously by the police. Although Bhima is a Panchayat but in terms of geography and population it is like a town. Now because the Street Vendors Act 2014 applies only to urban areas, the street vendors here could not get any help from this law. Now, in many rural areas too, street vendors, especially those who traditionally set up market places, are harassed by the police and administration. The law first sets its limits, and guidelines have been set for street vendors in cities. But a large group of street vendors fall outside the definition of urban street vendors, which includes street vendors working in railways and street vendors working in rural areas.

In the case of Bhim Panchayat, due to the efforts of National Hawker Federation and Mazdoor Kisan Shakti Sangathan, the street vendors of Bhim were organized and the struggle for them was started at the Panchayat level. The solution found by the local Sarpanch and Panchayat officials was that all the street vendors in the Panchayat area were given an identity card stating that they are a street vendor and can work in the Panchayat area. After being fine for a few days, he again started being harassed by the administration. Then, after talking to about 50 street vendors about the street vending law, it was decided that a demand would be made from the Panchayat that 'Panchayat Vending Committee' should be formed at the Panchayat level like the 'Town Vending Committee' and later this idea would be taken up by the state government. Will be taken till. The size of Panchayats is different in different states, where in Rajasthan there are

less Panchayats and their size is larger, whereas in Andhra Pradesh, Panchayats are smaller and more in number. In some states, Panchayats are developed and in some states, Panchayats are of rural environment, in such a situation, considering the rural diversities just like the urban diversities, the law for street vendors should be extended to the villages so that a large population can be included in it.

Its effort started from Bhim of Rajasthan, still it has not been successful. But with the joint efforts of youth, NHF and MKSS, pressure was created on the Panchayat to implement it. If this happens in all the states then change can come.

How strong is the street vendor law?

All laws passed by the Parliament may be powerful, but they have some limitations. The street vendors law is quite strong, but doesn't it have its limits? This is an important question and it is important to ask. In this law, the power of representation and decision making of street vendors has also been given to another body, yet its impact has been negligible. Eviction of street vendors has been taking place since 2014. The provisions of the law are effective in fighting the issue in the court, but what is the reason that despite the law, eviction of street vendors has taken place, provisions of the law are not written in urban development projects, documents like master plan were not amended after the coming of the law. , This is not being included in the new plan, when welfare schemes are implemented then those schemes are taken as the benefit of street vendors and the law is not even mentioned? Many such questions raise questions about the strength of the street vendor law. Many states have made rules contrary to the law, have not even made schemes, but have formed a committee of the Municipal Corporation in the name of TVC. Why?

The solution

The Street Vendors Act makes one thing clear and it is a strong law in any situation that street vendors have two rights; Of sale and rehabilitation. The existence of these two makes everything clear to itself that the local administration does not know, or does not believe in, the street vendor law. There could have been a provision regarding penalties for violation of laws on local administration. So that the administration does not play with crores of street vendors like this. Unions and organizations associated with street vendors also play an important role here. These unions should make such efforts with the street vendors that leadership should emerge from among the street vendors who have understanding, information and solutions and can intervene in the processes. Only through this, the street vendors law can be fully strengthened and implemented for the benefit of the street vendors.

Conclusion

After the implementation of the Street Vendors Act, on one hand the street vendors have got an identity and the right to work, on the contrary, a large section of them is still not aware of this, due to which the local administration has been continuously harassing them. It is important that the street vendors law be made a measure of public awareness and first of all the street vendors and then the common citizens should also be made fully aware about it.

Street vendors are an important link in our society and economic structure and it is everyone's common responsibility to protect their livelihood. Therefore, it is the common responsibility of all of us to understand the street vendor laws, important court orders and government schemes related to them and to convey that understanding to the street vendors in the form of awareness.

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