

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 3

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

A Study on Legal Framework on the Protection of Street Vendor's Right in India

PRIYA GHOSH¹

ABSTRACT

Since the ancient time our country witnessed the barter system that is the exchanging the goods, which ensured the healthy local sellers system. This type of underdeveloped economical system is the significance of evolution of Indian economy from that time to modern time. The journey of this history of street or small vendors or sellers was not even smooth at that time as well as not now. Street Vendors are mainly self-employed workers who sell goods, food, or anything on the roads. As market grows with the time, economy of the country glorifies but the small sellers or vendors with small amount of capital they cannot compete with the high value of markets. As per evolution of Indian economy from that time to modern time street vendors face many challenges as they could not effort a permanent shop, unable to complete a permanent workplace and set up. This article is going to explain through a review of various literatures is that the condition of street vendors in India, how they are treated, role of street vendors in Indian economy, how legal frameworks help to protect the rights of street vendors in India etc. Henceforth, the objective of this paper is to draw a picture on the condition of Indian street vendors and the legal framework which are responsible to protect them.

Keywords: street vendors, legal rights, Indian law, Indian economy.

I. INTRODUCTION

(A) Concept of street vendors-

A vendor, particularly one farther down the economic chain, offers products and/or services for sale. A vendor is capable of acting as a manufacturer as well as a seller (or supplier). A vendor is the general phrase used to describe a supplier or seller of commodities².

These street vendors are even found outside of schools, colleges, university, government buildings, historical monuments, institutions, subways, hospitals, bus stops, stations and even markets.

¹ Author is a LL.M. student at Maulana Abul Kalam Azad University of Technology, West Bengal, India.

² What is vendor, The Economic Times, *available at:* <https://economictimes.indiatimes.com/definition/vendor> (last visited date Jun 20, 2024)

According to section 2(l)³ of the Street Vendors Act, “**street vendor**” means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement,

Public park or any other public place or private area, from a temporary built up structure or by moving from place to place.

As per section 2(d) of the Act ⁴**mobile vendors** means street vendors who carry out vending activities in designated area by moving from one place to another place vending their goods and services.

II. HISTORICAL BACKGROUND

Since ancient time period street vending is a type of retailing. History says that the merchants, traders travel here and there, door to door to sell their goods. Even in many old Bollywood songs it is visible that various sellers were selling many mouth watering food, snacks, shoe polishing, etc since that time too. But now-a-days different food items are available either in form of packaging or through online order. Due to health awareness the demand of street food is decreasing at many places especially for children. Therefore, many types of street sellers are abolished due to this less demand and huge competition in market.

Scenario of the condition of Street vendors in various popular cities in India

- **Mumbai**

In Mumbai it is being seen that the working hour is almost 14–18 hours in a day, which is too excessive with respect to their daily income. Furthermore, there is no security or safety at work. Additionally, local authorities like the Municipal Corporation and local police harass these street vendors on a regular basis⁵. They also face the threat of eviction. Mostly they are migrants from rural areas around Mumbai town.

- **Delhi**

Overall the social, physical and economical status of the street vendors is not so satisfying. They struggle a lot to establish their rights and to protect their family from a severe crisis. The fact that street sellers in Delhi have limited access to social assistance programmers managed by the Delhi government only serves to exacerbate their concerns⁶. Because they labour on public

³ The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014

⁴ Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, No. 7 Acts of Parliament, 2014 (India)

⁵ Debdulal Saha, “*WORKING LIFE OF STREET VENDORS IN MUMBAI*” 5 301-325 (2011)

⁶ TAUHID Sadafut, *The Status of Street Vendors in Delhi*, (June 12, 2013), <https://www.ritimo.org/The-Status-of-Street-Vendors-in-Delhi>

highways for the most part of the day, street vendors are susceptible to a variety of illnesses, including migraines, hyperacidity, hypertension, and elevated blood pressure from pollution. Women's health is negatively impacted by lavatory shortages; many experience renal problems and urinary tract infections. There are security concerns for street vendors who are mobile.

For many street sellers in Delhi, the biggest and most constant concern is that local government agencies like the NDMC or MCD may forcibly remove them off the streets or seize their goods. Elections, large-scale events, or initiatives to improve city centres are frequently associated with an increased danger of displacement; the 2010 Commonwealth Games' eviction and relocation of street sellers is evidence of this unpleasant reality⁷. Due to their propensity to work as commission agents or as employees, trade in less profitable commodities, operate in unsafe or unlawful places, and produce smaller volumes of business, female street vendors are particularly vulnerable. They consequently typically make less money than male vendors in Delhi.

- **Kolkata**

In the main urban spaces along with the school, colleges and other organization the street vendors are found to vend the foods, necessary things, plants etc. They often face the eviction issues by the Kolkata Municipal Corporation. As the Kolkata is one of the metropolitan cities, the street vendors come for selling goods and commodities from outside of Kolkata, mainly from the rural sides. Even a big part of these street vendors are seen around the stations like Sealdah, Jadavpur, Howrah etc. Moreover the conditions of the street vendors in other popular cities are same.

Challenges faced by the street vendors.

Various challenges the street vendors faced like physical, social, mental, and economical is must.

- Street vendors face lack of proper environment of work place which is hazardous for their health.
- While urban developing projects are there like road widening, constructions the roadside vendors are displaced, evicted permanently etc.
- Unreal License caps which are mostly seen in Mumbai selling round 15,000 licenses as against an estimated 2.5 lakh vendors.

⁷ *Supra*, note 6

- Most of the time in a day they are working around the roadside so, lack of clean water, proper sanitization facilities causing their health issues.
- With the rising up of expensive daily lives, the income of street vendors is not sufficient. With the weather, holidays and any other factors sometimes they are facing even unpredictable income.

III. INTRODUCING STREET VENDOR ACT

To protect the vendors' rights and their livelihood NASVI (National Alliance of Street Vendors of India) came forward, many NGOs like ATITHI (Bihar), SEWA (Self- Employed Women's Association and Nidan)⁸ also played a vital role to protect them. Afterwards the Indian Government has introduced 'National Policy for Urban Street Vendors' in 2004, afterward it was revised as 'National Policy on Urban Street Vendors' in 2009. Then the Ministry of Housing and Urban Poverty Alleviation formed a draft of bill named with 'Model Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill' in 2009.

The street vendors are equally important to the Indian economy. As they are having small business, having no permanent place, do not hold sufficient capital to grow bigger that does not mean they are small, and valueless to the society and to the economy of India. In 2014 the Indian Government has introduced this The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 or also known as Street Vendor Act, 2014.

(A) Objectives of Act to protect the rights of Street Vendor

The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act was enacted in 2014 to make order to legalise the vending rights of the street vendors. This Act came into force with the constitutional provisions like 'right to equality', and 'freedom to trade', 'profession, and business'. The Act was brought in to force to regulate the vending of the street vendors making a regulatory body for such vending, avoiding congestion on the footpath so that the traffic can be maintained freely. The purpose of the Act was to create a regulatory agency to oversee street vendor sales and prevent footpath congestion, allowing for unrestricted traffic flow. This Act envisioned the state as having an obligation to acknowledge the sellers' rights and offer them social security against any form of violation. Since the vendors were seen as encroachers on public land prior to the Act's passage, the Act validated their right to vend, making their activity lawful.

⁸ Nistha Sinha, *RIGHTS OF STREET VENDORS IN INDIA*, Brillpedia (Dec 6, 2020), <https://www.brillpedia.net/post/rights-of-street-vendors-in-india>

This act empowers State Government to constitute a ‘Town Vending Committee’ under section 22⁹ to regulate, train, and create awareness of street vendors to protect their rights.

According to the section 5 of this act¹⁰, all street vendors above fourteen years of age will be granted a certificate of vending. However, such certificates will be granted only if the person gives an undertaking that he will carry out his business by himself or through the help of his family members, he has no other means of livelihood and he will not transfer the certificate. However, the certificate can be transferred to one of his family members if such vendor dies or suffers from permanent disability.

This act¹¹ ensures that every street vendor have the right to carry on the business of street vending activities in accordance with the terms and conditions mentioned in the certificate of vending.

The certificate may be cancelled if the vendor breaches the conditions of the certificate. And as per the section 18 of this Act, with the consultation of Town Vendor Committee, the local authority can evict those vendors who breach the conditions.

According to section 18(3) of this act, any vendor, having certificate shall not be relocated or evicted by local authority unless he has given 30 days notice.

And section 13 of this act states that every street vendor, who possesses a certificate of vending, in case of his relocation (under section 18), shall be entitled for new site or area, as the case may be, for carrying out his vending activities as may be determined by the local authority after the consultation with the Town Vending Committee.

(B) Rights of Street Vendor and Constitution -

Right to Equality – As per the Article 14 of Indian Constitution every person has to be equally treated before law and have equal protection of law within the territory of India. According to this provision every small or large vendors or sellers should have equal right to enjoy their livelihood.

Right to practice any profession or to carry on any occupation, trade or business – According to Article 19(1)(g) of the Indian Constitution everyone should have right to practice their business and trade. Henceforth, the street vendors are equally eligible to practice or carry

⁹ Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, No. 7 Acts of Parliament, 2014 (India).

¹⁰ Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, No. 7 Acts of Parliament, 2014 (India).

¹¹ Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, No. 7 Acts of Parliament, 2014 (India).

any business. This Fundamental Right ensures that rights of vendors too.

Right to life and liberty – Under article 21 of the Indian Constitution it is said that every person has right to life and personal liberty whereas the street vendor has also eligible to enjoy this Fundamental Right. That means every street vendors has right to have a good life to enjoy by conducting their business and earning sufficient amount to have the basic needs of life at least.

State to secure a social order for the promotion – As per the article 38 of Indian Constitution the state should promote the welfare of the people by securing and protecting them. Hence, the State has also the same duty towards the street vendors to uplift their welfare for their financial and social security and protection of their rights.

IV. CONCLUSION

This article has shown how and why the rights of the street vendors should be protected under not only the Street Vendors Act but also Indian Constitution guarantees few rights regarding the livelihood of the street vendors as well. In reality the street vendors were often neglected and faced many threats even before the implementation of Street Vendor Act. After introducing that act by the Parliament the scenario of the street vendors have been improved slightly but not fully. Because legislation ensures their rights but who are suffering from poverty issues, struggling a lot for a good amount of earnings in daily basis, are they really ready to move for any argument against the violation of their rights? Most of the cases the answer is ‘no’. So, this article can help us to understand firstly, they are human being, they have rights to enjoy their life, and they are doing enough to do their own job. Hence, the State should help to uplift the condition of these street vendors; protect them legally, socially and financially. Although sometimes the State focuses on minimizing overcrowd from busy zone. Often street vendors and their buyers causing the traffic jam at busy place and make this chaotic, accident prone. That is why sometimes the vendors are evicted by the local authority. But these should not been done at all. The State should balance their rights and other things too. This is the suggestion through this article instead of removing someone’s rights we should thing about their importance and contribution to the society as well. So, we keep on checking the both side like vendors right as well as others’ right which can go parallel from initial stage.
