

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
BENCH AT JAIPUR

D.B. PUBLIC INTEREST LITIGATION PETITION
CHAPTER XXII-A (RULE 385A TO 385R)

D.B.W.P (PIL) No. 623 / 2012
Centre for Civil Society & ORS. v/s JMC 2013.

Brief Synopsis

The present petition in the nature of PIL is being filed by the Petitioners seeking inter alia directions from this Hon'ble Court against the Respondents not to disturb the street vending from continuing their business of street vending till the time the Policy or the Law is not implemented by the Respondents in its letter and spirit.

That in absence of any legal documents the protection of fundamental rights of the street vendors was difficult. Although the Constitution Bench of the Supreme Court of India in *Sodan Singh vs. NDMC* [1989 AIR 1988, 1989 SCR (3)1038] held "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 for no other use. Proper regulation is, however, a necessary condition as otherwise the very object of laying out roads to facilitate traffic may be defeated. Allowing the right to trade without appropriate control is likely to lead to unhealthy competition and quarrel between traders and travelling public and sometimes amongst the traders themselves resulting in chaos. The right is subject to reasonable restrictions under clause (6) of Article 19.

In view of the judgments of the Hon'ble Supreme Court the Government of India came out with the National Policy on Urban Street Vendors of India, 2004. The Policy not only recognized street vending as an integral part of the unorganized economy of the country but the vendors were also considered to be important components. In connivance of the National Policy on Urban Street Vendors, 2004 the State of Rajasthan came out with the state Policy call the World of Street Vendors. The Policy drafted by the state government was more or less copy of the National Policy.

Prat Chaudhary

After the Policy was drafted by the State Government, the concerned department of the state wrote letters to the Municipal Bodies for immediate implementation of the Policy. However, the same was never paid heed of. Infact the concerned departments wrote several letters to the Urban Local Bodies (ULBs) but the same went into vain.

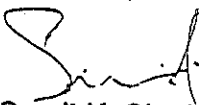
At a point of time the concerned department has also fixed several deadlines for immediate and effective implementation of the Policy. However, nothing has happened till date. In the meanwhile the state government has enacted a law titled as Rajasthan Street Vendor (Protection of Livelihood and Regulation of Street Vending) Act, 2011, which has now been notified in the official State Gazette. The Act has been made applicable since 01.04.2012.

It is pertinent to mention herein that the ULBs on one hand are not implementing the Policy or the Law because of lack of their will and on the other hand they are seeking to evict the street vendors from their place of vending. That the ULBs has not only failed to perform their statutory duty but also is committing illegal act by evicting the street vendors from their place of vending.

The present petition has been moved by the Petitioners seeking directions from this Hon'ble Court directing the Respondent not to harass/evict the street vendors from their place of business. In addition it is being prayed that this Hon'ble Court may also direct the Respondents to implement the Law in its letter and spirit and till then there must be a complete stay on the eviction and confiscation. If required the Respondents may be directed to take action as per the National Policy on Urbah Street Vendors, 2004 and 2009.

Sumit Chandra

Date this _____ day of _____, 2012


Sumit K. Singh
Counsel for the Petitioner
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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
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D.B. PUBLIC INTEREST LITIGATION PETITION
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D.B W.P(PIL) No. 6623 /2012

CAUSE TITLE

1. Petitioner(s) Centre for Civil society (CCS hereinafter), a trust registered under the Indian Trust Act, 1882 and having its registered office at B-12, Kailash Colony, Delhi-110048 Now at It is A-69, Hauz Khas, New Delhi-16 through Mr. Amit Chandra, S/o Sh. Mohan Prasad, ages about 27 years, R/o D-125, Mahavir Marg, Ambabadi, Jaipur-302023, Rajasthan Fax No. Nil, Mobile No. 09784258630, having PAN no. as AIEPC1621R, email address as amit@ccs.in working as National Coordinator of a programme launched by CCS called Jeevika: Law, Liberty and Livelihood Campaign since 2009. [Herein after called Petitioner No. 1]

2. Centre for Policy Solution, a Society registered under the Registration of Societies Act, 1860 at Jaipur, Rajasthan having its registered office at F-36, Alankar Plaza, Central Spine, Vidyadhar Nagar, Jaipur-302023, Rajasthan through its President Mr. Sanjay Garg, S/o Sh. Surendra Kumar Garg, R/o E-107, Durga park, Ambabari, Jaipur-302023, Rajasthan aged about 47 years, having Fax no. NIL, Mobile No. 09829157043, PAN No. AHMPG1201A, having email address as sanjay_celicom@rediffmail.com, working as social activist and entrepreneur. [Herein after called Petitioner No. 2]

3. Heritage City Thadi-Thela Union, Jaipur a trade union registered under the Trade Unions Act, 1926 having its registered head office at House No. E-402, Vaishali Nagar, Jaipur, Rajasthan through its President Mr. Banwari Lal Sharma, S/o Sh. Babu Lal Sharma, E-402, Vaishali Nagar, Jaipur-302021, Rajasthan aged

Amit Chandra

2

48 years, Fax no. NIL, Mobile No. 09829092918, PAN No. ASRPS2826F, e-mail address jaipurvendors@gmail.com, working as President of Heritage City Thadi-Thela Union, Jaipur and a street vendor by profession. [Herein after called Petitioner No. 3]

Respondent(s) Jaipur Municipal Corporation, (JMC in short) through its CEO

1. Mr. Loknath Soni, having office at Pandit Deendayal Upadhyay Parisar, Lal Kothi Tonk Road, Jaipur, Rajasthan, contact number- 0141-2742823, FAX No. 0141-2742823, email address ceo.jaipurmc@gmail.com. [Herein after called Respondent No. 1]

2. State of Rajasthan through its Secretary, Department of Urban Development and Housing and Local Self Government, Secretariat, Jaipur, Rajasthan contact number- Not Known, FAX No. Not Known, email address Not Known PAN No. Not Known. [Herein after called Respondent No. 2]

3. Jaipur Development Authority through its Commissioner, having office at Indira Circle, Jawahar Lal Nehru Marg, Jaipur, contact no. 2562035 Fax No. 2563614, PAN No. Not Known, email address Not Known. [Herein after called Respondent No. 3]

WRIT PETITION IN THE NATURE OF PUBLIC
INTEREST LITIGATION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING FOR ISSUANCE
OF APPROPRIATE WRIT/ORDER/DIRECTION IN THE
NATURE OF MANDAMUS DIRECTING THE
RESPONDENTS NOT TO HARASS THE STREET
VENDORS/EVICT THEM FROM THEIR RESPECTIVE

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3

PLACE OF BUSINESS TILL THE TIME THEIR
FUNDAMENTAL RIGHTS ARE REGULATED AS PER
LAW/POLICY MADE IN THIS REGARD

AND

WRIT PETITION IN THE NATURE OF PUBLIC
INTEREST LITIGATION UNDER CHAPTER XXII-A
(RULE 385A TO 385R) PRAYING FOR ISSUANCE OF
APPROPRIATE WRIT / DIRECTION / ORDER TO THE
RESPONDENTS FOR IDENTIFICATION OF VENDING
ZONES BY THE LAND OWNING AGENCIES AS PER
THE JAIPUR MASTER PLAN 2025 AND FOR
ALLOTMENT OF VENDING SPACE IN THE
DESIGNATED VENDING ZONES TO THE STREET
VENDORS.

BEFORE THE HON'BLE CHIEF JUSTICE
AND HIS HON'BLE COMPANION BROTHER JUDGES
OF RAJASTHAN HIGH COURT JAIPUR.

The humble petition of the Petitioners above named.

MOST RESPECTFULLY SHEWETH:

1. PARTICULARS OF CAUSE/ORDER AGAINST WHICH THE PETITION
IS MADE:

That the present Writ Petition in the nature of Public Interest Litigation is being filed by the Petitioners above named against the Respondents seeking inter alia Writ/direction/order in the nature of mandamus for implementation of State Policy on Urban Street Vendors in the name of "The World of Street Vendors, 2007" (the Policy herein after). That the Policy has been passed by the State of Rajasthan through Department of Local Self Government in the year 2007. The policy inter-alia seeks to organize, institutionalize, promote and protect street vending as a trade and street vendors as micro entrepreneurs, throughout the state of Rajasthan.

Prat Chandra

4

2. PARTICULARS OF THE PETITIONERS

2.1. That the Petitioner No. 1 is (CCS), is a trust registered under the Indian Trust Act, 1882 and having its registered office at B-12, Kailash Colony, Delhi-110048 now at A-69, Hauz Khas, New Delhi-16. The Petitioner No. 1 is working for the betterment of the social and working condition of the urban poor in general and street vendors in particular. The Petitioner No. 1 for advancement of its goal has opened an office in Jaipur in the year 2009 which is also called the Campaign Office of CCS. That through this office the Petitioner No. 1 is also working for the policy implementation and better urban governance in the case of street vendors in Rajasthan. In this process the Petitioner No. 1 has been engaged with the State Government Respondent No. 2 for implementation of the Policy on street vendors. In addition to this the Petitioner No. 1 is also engaged with the local self government for the same cause. In this regards the Petitioner has been duly recognized by the State Government as well as many of the local self governments. On the other hand the Petitioner No. 1 is also engaged in organizing the vendors for their own betterment and securing their livelihood. In this regards the Petitioner No. 1 is engaged in the conducting training programmes and workshops for street vendors.

That the Petitioner No. 1 is being represented through Mr. Amit Chandra, details of whose has been duly mentioned in the preceding paragraphs. That Mr. Chandra is working as National Coordinator of a programme launched by CCS in Rajasthan called Jeevika since 2009. That Mr. Chandra has been duly authorized to file, plead and sign on behalf of the Petitioner No. 1 and swore and verify any affidavit in this regards.

A copy of the constitution of the Petitioner No. 1 as well as the documents containing the working of Petitioner No. 1 is annexed herewith and marked as ANNEXURE-P/1.

Amit Chandra

5

A copy of authorization in favor of Mr. Amit Chandra the authorized representative of the Petitioner No. 1 is also annexed herewith and marked as ANNEXURE-P/2.

2.2 That the Petitioner No. 2 Centre for Policy Solution, is a Society registered under the Registration of Societies Act, 1860 and having its registered office at F-36, Alankar Plaza, Central Supply, Vidyadhar Nagar, Jaipur-302023, Rajasthan. That the Petitioner No. 2 is working in expansion of awareness relating to corruption, rights of the vendors and education and social security and social upliftment of the urban poor including street vendors. That the Society has been registered under the Society Registration Act 1860 in the year 2011 and as such inspite of being so young, has gained a significance through its hard working office bearers and staffs.

A copy of the constitution and complete list of office bearers of the Petitioner No. 2 as well as the documents containing the working of Petitioner No. 2 is annexed herewith and marked as ANNEXURE-P/3.

2.3 That the Petitioner No. 3 Heritage City Thadi-Thela Union, Jaipur is a trade union registered under the Trade Unions Act, 1926. That the Petitioner No. 3 is a union of street vendors and is working among the vendors for their collective bargaining. That the Petitioner No. 3 is a kind of self help group of around 500 street vendors in Jaipur. That the Petitioner No. 3 is responsible for expansion of awareness among the street vendors in general and its members in particular. It also works for the welfare of the vendors and its members through social, educational and economical supports. And as such works as a watch dog of the rights of the vendors.

A copy of the constitution and complete list of office bearers of the Petitioner No. 3 as well as the documents containing the working of Petitioner No. 3 is annexed herewith and marked as ANNEXURE-P/4.

Amit Chandra

5

2.4 It is stated that none of the Petitioners has ever been involved in any other civil, revenue, criminal litigation in any capacity before any Court or Tribunal in India or outside India.

3. DECLARATION AND UNDERTAKING OF THE PETITIONERS:

3.1. The present petition is being filed by way of public interest litigation and the petitioners do not have any personal interest in the matter. The petition is being filed in the interest of the street vendors who are vending on the pavements and sidewalk of the road. That the Hon'ble Supreme Court in the matter of Sodan Singh vs. NDMC [1992 SCR (2) 243] had held that the street vendors have fundamental right under Article 19 (1) (g) of the Constitution to carry on business. Further, in Gainda Ram vs. MCD [2010(11) SCALE 36] the Apex Court has held that the street vendors have a fundamental right to livelihood under Article 19 (1) (g) and same can be regulated only through law.

3.2 That the entire litigation cost, including the advocate's fee and other charges is being borne by the petitioners. [That the Petitioner No. 1 is having its PAN no. as AAATC1889P the PAN NO. of Petitioner No. 2 and Petitioner No. 3 (the Organisation's) is not available, it is under taken that as and when the PAN numbers are obtained from the Income Tax Department the same shall be furnished forthwith].

3.3. That a thorough research has been conducted in the matter raised through the public interest litigation and all the relevant material in this respect to such research has been annexed with the petition at relevant places.

3.4. That to the best of the petitioner/petitioners knowledge and research, the issue raised was not dealt with or decided and that a similar or identical petition was not filed earlier by them.

3.5 The petitioner/petitioners have understood that in the course of hearing of this petition the Court may require any security to be furnished towards

Prat Chandra

7

costs or any other charges and the petitioners shall comply with such requirements.

4. FACTS IN BRIEF CONSTITUTING THE CAUSE :

4.1 That pursuant to the directions of the Hon'ble Supreme Court of India in the matter of Gajnda Ram & Ors. vs. MCD & Ors. bearing W.P.(C) No. 1699/1987 the Government of India through the Ministry of Housing and Urban Poverty Alleviation came out with a policy for regulation of street vending namely National Policy on Urban Street Vending, 2004. A copy of the National Policy on Urban Street Vendors of India, 2004 is also annexed herewith and marked as ANNEXURE-P/5.

4.2 That pursuant to the said Policy the Respondent No. 2 adopted the Policy in the year 2007 and came out with a state Policy for regulation of street vending which was named as "The World of Street Vendors, 2007" (the Policy herein after). That the Policy inter-alia recognized street vending as a business and street vendors are small scale traders and micro entrepreneurs. The Policy further states that the every civic shall carry out survey of the Street Vendors, register them and issue them identity cards therewith.

A copy of the State Policy namely "The World of Street Vendors, 2007" is annexed herewith and marked as ANNEXURE-P/6.

4.3 That the Policy further states that apart from the afore stated basic requirements some civic facilities for the better conduct of vendors' business must also be provided which would include toilets, drinking water at the vending area, waste disposal system, parking etc. The policy further states that the civic bodies shall also endeavour to identify appropriate/designated space for vending keeping in mind the number of vendors on the basis of the survey so made. The Policy further states that in all the future development plans at least 2 to 2.5% of land should

10

Amid Chowdhary

be kept for development of vendors market and to be allotted to the vendors.

4.4 That pursuant to the said Policy as drafted/enacted by the state government a direction was issued to all the civic bodies in the state for immediate implementation of the same. In the regard the Deputy Director (Regional), Local Body, Jaipur wrote a letter dated 28.09.2007 to all the Commissioner / Ex. Engineers / Municipal Corporation / Municipal Council / Municipalities falling under the Jaipur Division to implement the Policy forthwith in their area.

A copy of the letter dated 28.09.2007 written by Deputy Director (Regional), Local Body, Jaipur is also annexed herewith and marked as ANNEXURE-P/7.

4.5 That pursuant to the said letter by the Dy. Director, Local Bodies; the Commissioner (Revenue), Jaipur Municipal Corporation (JMC is Respondent No. 1 herein) also wrote a letter dated 21.04.2008 to all the Regional Commissioners/C.L.S/S.N.J/M.D.J/H.M.Z.(E)/ H.M.Z.(W) of the Jaipur Municipal Corporation for heeding into the Policy and to speedy implementation of the same.

A copy of the letter dated 21.04.2008 written by the Commissioner (Revenue), Jaipur Municipal Corporation is also annexed herewith and marked as ANNEXURE-P/8.

4.6 That similar letters were further written on various dates like 22.05.2008. However, no heed was paid to the matter by any of the officer concerned. Infact the matter was kept in abeyance owing to the inability and non-action of the officials of the Respondent No. 1.

Prat Chandra

9

A copy of the letter dated 22.05.2008 written by Commissioner (Revenue), Jaipur Municipal Corporation is also annexed herewith and marked as ANNEXURE-P/9.

4.7 That since no action was being taken the Petitioner No. 1 kept on approaching the various departments concerned of the Respondent No. 2. But all the actions of the Petitioner failed miserably. On one hand the said Policy was not being implemented by the Respondents and on the other the officials of the Respondent No. 1 were taking coercive actions against the vendors of the area. In this process many of the vendors were actually removed from their place of business from where they were vending since long.

4.8 That the Petitioner No. 1 however, kept on approaching different forums without losing hope. In this process the Directorate of Local Bodies, State of Rajasthan wrote a letter through its Ex. Engineer dated 21.07.2009. In this letter the Directorate showed its anguish over the non-action and non-implementation of the Policy by the civic bodies of the state. Pursuant to this the Directorate vide the same letter issued a direction fixing a time period for immediate and effective implementation of the Policy. And it was also directed that a report detailing the different processes completed by the civic bodies were called for by 05.10.2009.

A copy of the letter written by the Directorate of Local Bodies, State of Rajasthan through its Ex. Engineer dated 21.07.2009 is also annexed herewith and marked as ANNEXURE-P/10.

4.9 That in the meanwhile the Government of India came out with a revised National Policy on Urban Street Vendors of India, 2009. That the Policy was a revised and upgraded version of the National Policy on Urban Street Vendors of India, 2004 which inter-alia included concept of "Natural Market". It was desired that while identifying a particular spacer

Pratik Khandelwal

for demarcating it as vending site the principles of "Natural Market" must be kept in mind. Further, no street vendor should be evicted only in the name of beautification of the city.

A copy of the National Policy on Urban Street Vendors of India, 2009 is also annexed herewith and marked as ANNEXURE-P/11.

4.10 That Prime Minister of India pursuant to the enactment of the National Policy on Urban Street Vendors of India, 2009 vide his letter dated 04.08.2009 asked all the Chief Ministers of the States including the Respondent No. 2 to take immediate and necessary steps for implementation of the Policy on Urban Street Vendors of India, 2009 in its true letter and spirit.

A copy of the letter dated 04.08.2009 written by the Prime Minister of India to all the Chief Minister of the State including the Respondent No. 2 is also annexed herewith and marked as ANNEXURE-P/12.

4.11 That inspite of all these no heed was paid by any of the official of the Respondent No. 1 and the matter still remained in the state of limbo. Finding no other alternative the Commissioner (Revenue), Jaipur Municipal Corporation again wrote the 12th reminder letter dated 13.10.2009 to all the Regional Commissioners / C.L.S / S.N.J / M.D.J / H.M.Z.(E) / H.M.Z.(W) of the Jaipur Municipal Corporation for heeding into the Policy and to speedy implement of the same. However, no heed was again paid to the matter and the state of affairs remained the same.

A copy of the letter written by the Commissioner (Revenue), Jaipur Municipal Corporation (JMC is Respondent No. 1 herein) dated 13.10.2009 is also annexed herewith and marked as ANNEXURE-P/13.

4.12 That the Commissioner (Revenue), Jaipur Municipal Corporation sent similar reminder vide his letter dated 21.10.2010 to all the Regional

Dr. J. Chandra

11

Commissioners / C.L.S / S.N.J / M.D.J / H.M.Z.(E) / H.M.Z.(W) of the Jaipur Municipal Corporation for heeding into the Policy and to speedy implementation of the same. However, no heed was again paid to the matter and the state of affairs remained the same.

A copy of the letter written by the Commissioner (Revenue), Jaipur Municipal Corporation (JMC is Respondent No. 1 herein) dated 21.10.2010 is also annexed herewith and marked as ANNEXURE-P/14.

4.13 That the Directorate of Local Bodies, State of Rajasthan vide his letter dated 20.04.2011 wrote another reminder to the Chief Executive Officer, Municipal Corporation of Jaipur, Jodhpur, Kota, Ajmer and Bikaner alongwith commissioner of Municipal Council of Udaipur and Bharatpur. In this reminder letter the time limit for implementation of the Policy was extended and now a deadline of 15.07.2011 was fixed by the Directorate. Further the Directorate also summoned reports on the implementation of the Policy by all the aforementioned authorities by 15.07.2011.

A copy of the letter dated 20.04.2011 written by the Directorate of Local Bodies, State of Rajasthan through its Ex. Engineer is also annexed herewith and marked ANNEXURE-P/15.

4.14 That in the meanwhile vide their letter dated 14.05.2010 the Petitioner No. 1 has approached the Respondent No. 1 for seeking their permission for rendering their support in assisting the Respondent No. 1 in proper and effective implementation of the Policy at the earliest. In reply to this the Respondent No. 1 vide its letter dated 23.01.2012 has approved the Petitioner's request.

A copy of the letter dated 23.01.2012 is also annexed herewith as ANNEXURE-P/16.

Pratish Chandra

12

4.15 That in spite of the above referred communication by the Respondent No. 2 to the Respondent No. 1 and by the Respondent No.1 to its officials effectively in-de-facto no action has been taken till date. In fact the situation is that the each and every Zonal office of the Respondent No. 1 has intentionally kept the matter in abeyance and has done nothing till date. In fact this is being done very intentionally and is a part of large scale organized and systematic syndicate of the officials of the Respondents who are involved in extorting illegal money from the under the threat of illegal eviction from their place of business. In fact it is the officers of the Respondents who are creating monsters and are levying the onus on the vendors for all the mess created. In fact the National Policy and State Policy could have actually yielded results if properly implemented.

4.16 That at this stage it is also pertinent to mention herein that the Respondent No. 2 in the year 2011 has also enacted a law in the name and style of Rajasthan Street Vendor (Protection of Livelihood and Regulation of Street Vending) Bill, 2011. That the Bill is a further modified version of the Policy, 2007 and contains detailed version of the same.

A copy of the Rajasthan Street Vendor (Protection of Livelihood and Regulation of Street Vending) Bill, 2011 is also annexed herewith and marked as ANNEXURE-P/17.

4.17 That the Rajasthan Street Vendor (Protection of Livelihood and Regulation of Street Vending) Bill, 2011 has also got ascent of the Governor of the State of Rajasthan on 21.09.2011. That the Petitioners have come to know that the Respondent No. 2 has also published the Bill in the official State Gazette and in this regards a notification dated 09.01.2012 has also been issued by the Respondent No. 2. The said notification specifies that the Rajasthan Street Vendor (Protection of

Livelihood and Regulation of Street Vending) Act, 2011 shall come into force with effect from 01.04.2012.

A copy of the Notification dated 09.01.2012 issued by the Department of Local self Government i.e Respondent No. 2 is also annexed herewith as ANNEXURE-P/18.

5. SOURCE OF INFORMATION:

5.1 That the source of information of the facts pleaded in the present petition has been received from the concerned department through various applications made by the authorized persons of the Petitioners under the Right to Information Act, 2005. That the authorized representatives of the Petitioners have verified personally the source of information of the facts pleaded in the petition through the said RTI applications. Apart from this various information has also been obtained from the respective websites of the Respondents:

6. NATURE AND EXTENT OF INJURY CAUSED/APPREHENDED:

6.1. That Petitioners have approached this Hon'ble court vide the present Writ Petition in the nature of PIL as the non action on the part of the Respondent has caused serious prejudice to the fundamental rights of the street vendors of the state: In fact the officers of the Respondents on the one hand has kept the Policy in abeyance and on the other are threatening the street vendors of the area with illegal eviction on one ground or the other. That the vendors are under the grab of forced eviction being extorted illegally by the officials of the Respondents. The vendors are made to pay extortion money and if they fail their goods are confiscated and fine are levied on the vendors.

7. ANY REPRESENTATION ETC. MADE:

7.1 That the Petitioners had made several representations to the concerned department of the Respondent No. 2 and with the Respondent No. 1. One

14

of such representation includes a letter dated 14.05.2010 by the Petitioner No. 1 to the Respondent No. 1 seeking permission of the Respondent No. 1 for rendering their support in assisting the Respondent No. 1 in proper and effective implementation of the Policy at the earliest. In reply to this the Respondent No. 1 vide its letter dated 23.01.2012 has approved the Petitioner's request. A copy of which has already been annexed herewith the petition as ANNEXURE-P/16.

Further, that the Petitioner No. 1 has also sought several information in respect of status of implementation of the Policy from different Zones and Municipal Corporation in the state under the Right to Information Act, 2005.

A few copies of said applications and the reply made therein are also annexed herewith as ANNEXURE-P/19 (Copy.).

8. **GROUND'S LEADING TO THE PRESENT WRIT PETITION:**

8.1 For that the actions of the Respondents are in a clear breach of the fundamental right to "*practise any profession, or to carry any occupation, trade or business*" as enshrined in Article 19 (1) (g) of the Constitution of India and as reiterated and reaffirmed by the Hon'ble Supreme Court of India in the matter of Gairda Ram vs. MCD [2010(11) SCALE 36] wherein the Hon'ble Court has held that Street Vendors have fundamental right of vending on the public place under Article 19 (1) (g) of the Constitution which can be regulated only through law enacted as per Art 19(6).

It may thus be submitted that the demolition/dispossession drive by the Respondents against the Petitioners has no legal sanctity and is in breach of Article 19(1) (g) of the Constitution of India. Such an action is illegal and has no force of law.

8.2 Because the non action on part of the Respondents in non implementation of the Policy in spite of repeated reminders from the appropriate authorities and the Petitioners as well as the vendors, is not only causing prejudice to

the interest of the Street Vendors but also causing harm to their earning as a result the livelihood of their families are suffering.

8.3 Because the Constitution Bench of Hon'ble Supreme Court in Sodan Singh vs. NDMC [1992 SCR (2) 243] had held that the street vendors like the Petitioners have fundamental right under Article 19 (1) (g) of the Constitution to carry on business. In Gaiinda Ram vs. MCD [2010(11) SCALE 36] the Apex Court has held that the street vendors have a fundamental right to livelihood under Article 19 (1) (g) and same can be regulated only through law. The action of the Respondent No. 1 is not only the violation of the fundamental right but also violation of natural justice causing thereby violation of the legal and Human rights of the street vendors.

8.4 For that the said acts of the Respondents were also in violation of Article 21 {Right to Life in its various connotations as has been succulently been interpreted by the Hon'ble Supreme Court of India in a catena of decisions}.

8.5 Because the action of the Respondents are inhumane and shameful. In spite of repeated request of the vendors and the Petitioners the Respondents have failed to comply with the requirements of the National Policy on Urban Street Vendors and implement the State Policy which has resulted into considerable loss to the street vendors.

8.6 Because the Respondents ought not to be allowed to take such actions affecting the livelihood of citizens on the basis of their whims and fancies. Such non action on the part of the respondents, in spite of repeated request of the petitioners are often with the ulterior motive of extorting money from the poor vendors. Having no alternative of livelihood left with them they bow down to the illegal demands of the officials and the root of corruption gets strengthened.

Prat Chandra

8.7. Because such an action if tolerated by this Hon'ble Court would in effect diminish the citizens' respect for Rule of Law. The livelihood of the poor is being played with by the respondent, on one pretext or the other.

8.8 Because the street vendors are the soft targets of Local bodies. Most of public places and footpaths are encroached by regular traders / shopkeepers. In any drive against the encroachment the Street vendors are the easy targets as they are at the marginal end and cannot resist the authorities. Considering these aspects only, the Government of India framed the National Policy of Street Vendors, 2009. The policy recognizes the importance of street vendors and aims at providing them legal status. Unfortunately, despite the adoption of the National Policy by the Local bodies Street Vendors are treated as illegal entity by and large and they are subjected to harassment, extortion and all kind of human right violation by police officials and officials of local bodies.

8.9 Because the Petitioners are entitled to be treated as "Human" and as the citizen of India. Thus it is imperative that the fundamental and legal rights of the vendors must be protected as the same is stake due to the arbitrary action of respondent.

8.10 Because the Respondent No. 1 has failed to implement and adhere to the Policy 2007 and thereby allowing the formation of Town Vending Committees or the Ward Vending Committee and to identify the sites for vending.

8.11 Because the non action of the Respondents and the lack of intent and will has caused severe irreparable loss and damage to the fundamental rights and the livelihood of the poor vendors who do not have any other source of earning their livelihood. Hence the present petition has been moved by the Petitioners.

Sanjay Chandra

8.12 That the Petitioners prays for permission for raising additional grounds at the time of hearing in the interest of justice and in furtherance of the ground raised herein above.

9. DELAY IF ANY, IN FILING THE PETITION AND EXPLANATION THERE FOR:

9.1 That no delay has been caused in filing the present writ petition in the nature of PIL.

10. RELIEF(S) PRAYED FOR:

10.1 That in view of the facts and circumstances as stated above it is respectfully prayed that this Hon'ble Court may kindly be pleased to issue appropriate Writ and/or Order and/or direction in the nature of:

- a. a mandamus or any other appropriate writ and/or order staying the eviction of the vendors or confiscation of the goods/cart or interfere or restrain or hinder or cause hindrance of any nature to the business of the street vendors except after implementation of the Policy or the law in its letter and spirit; and
- b. a mandamus or any other appropriate writ and/or order, thus directing the respondents to implement the Policy or the law in a time bound manner; and
- c. a mandamus or any other appropriate writ and/or order such as to conduct fresh survey of the vendors, providing vending cards to the vendors and identification/demarcation of vending sites and thereafter allot the demarcated vending sites to the vendors; and
- d. pass any other order(s) as this Hon'ble Court deems fit and proper in the interest of justice.

Just Chandra

18

11. INTERIM ORDER, IF PRAYED FOR:

11.1 In view of the facts and circumstances as stated above and in the interest of justice this Hon'ble Court may be pleased to:

- a. Allow the street vendors and the members of the Petitioners to continue with their business with a direction to the Respondents not to evict/confiscate goods/cart or to harass the street vendors and the members of the petitioners and threaten them for dispossession from their respective place of business; and
- b. pass any Order/Orders which this Hon'ble Court may think appropriate.

12. CAVEAT:

12.1 That no notice has been received of lodging a caveat by the opposite party. In fact no caveat is required in the present matter.

Sumit Chandra

PETITIONER NO. 1

THROUGH

Sumit K. Singh

SUMIT K. SINGH
COUNSEL FOR THE PETITIONER
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DATE THIS 20 DAY OF 04, 2012

Sumit Chandra