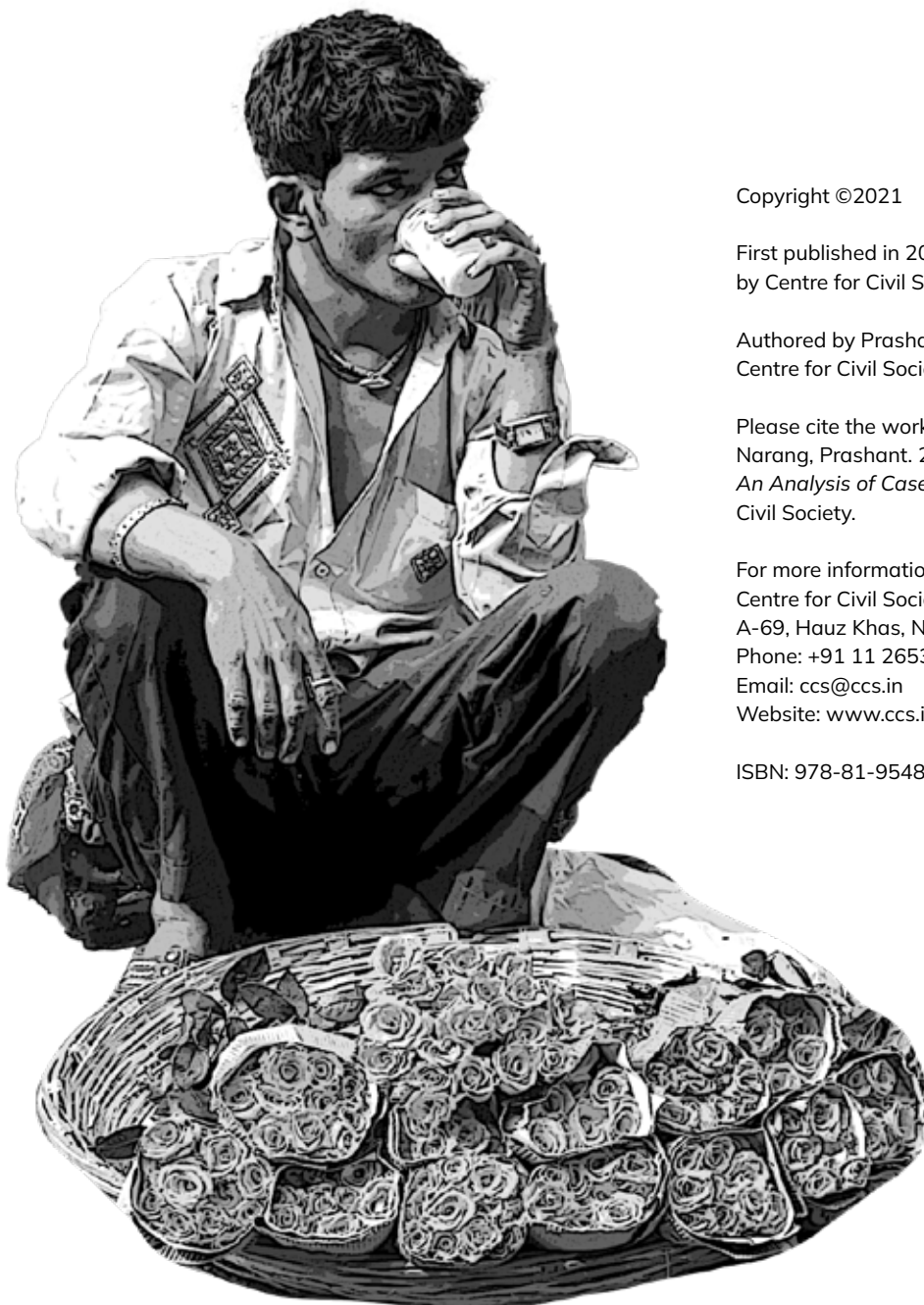


Street Vendors Act 2014

# An Analysis of Cases, Rules, and Schemes





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# **An Analysis of Cases, Rules, and Schemes**



SOCIAL CHANGE THROUGH PUBLIC POLICY

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# Introduction

The Street Vendors Act 2014 was introduced to protect the rights of urban street vendors and regulate vending. While the Act defines the broad framework for regulating vendors, state governments are required to notify rules and schemes to detail the specificities under the Act.

Since 2017, Centre for Civil Society has been tracking the progress made by states in implementing the Act. We have built a Compliance Index that ranks and scores states based on the extent of implementation. In 2019, along with ranking and scoring states on the index, we analysed 57 court judgements pertaining to the Act. These judgments reveal how the Judiciary has interpreted the Act (Centre for Civil Society 2019).



In 2020, we analysed the rules and schemes of 34 states and union territories under the Street Vendors Act. Our analysis elaborated on the points of departures between the parent law and the delegated legislation (Bedi and Narang 2020).

This report collates the judicial and legislative analysis of the 2019 and 2020 report, respectively. While the scores and ranks of states change each year, the judicial and legislative analysis hold long term relevance.

This collated document is intended to serve as a ready reference for street vendors, vendor associations, and other organisations advocating for vendors rights. The first section elaborates on how various high courts have interpreted the Street Vendors Act. The second section reviews the delegated legislation (rules and schemes) of different states under the Act.



# How has the Judiciary Interpreted the Act?





The Supreme Court of India and various high courts pronounced 64 judgements and orders between January 2017 and September 2018, on disputes pertaining to the Street Vendors Act 2014 (the Act). The following section analyses 57 such cases to highlight the varying interpretations expounded by the courts<sup>1</sup>, and attempts to discern whether these interpretations fulfil the intended legislative objectives. The section also sheds light on the most contested issues that plague the implementation of the Act.

## Summary of Issues Contested and Case Outcomes

- **Eviction is the single most contested issue:** In 47 out of 57 cases, vendors or their representatives challenged what they considered 'unlawful eviction'.
  - » Eviction in these cases resulted mainly from: (1) the ambiguity surrounding the definition of a vendor under the law and their identification in the absence of enumeration surveys; and (2) the conflicted understanding of vending and no-vending zones, with some courts still upholding the demarcations made before the Act.
  - » Other issues of contention relate to the representation of vendors in Town Vending Committees (TVC), transparency in street vendor elections, enumeration of street vendors, permissions to change trade, and implementation of the Act in general.
- Courts have typically decided against vendor petitions or deferred decision making in favour of maintaining the status quo
  - » Of the 57 cases, 24 cases were decided against vendors and 21 cases were deferred to the competent authority for decision making.
  - » Of the 24 cases where courts ruled against the vendor petitioner, 20 petitions challenged unlawful evictions or harassment. 14 out of these 20 adverse decisions were pronounced by the High Court of

Delhi.

- In 21 cases where courts issued deferrals, the decisions likely cemented the status quo.

## Are Vendor Evictions Lawful?

Between January 2017 and September 2018, 47 petitioners (including vendors and vendor associations) challenged what they considered unlawful eviction. Petitioners demanded protection under Section 3(3) of the Act that requires local TVCs to enumerate all existing vendors and issue identity cards before conducting any evictions.

Despite the provision, vendors continue to be evicted due to various reasons especially in areas where TVCs are not functional yet. Such evictions retain historical biases against vendors. These evictions contravene the Act, which explicitly charges state machinery to take comprehensive measures to check and control the practice of forced evictions. As a result of varying judicial interpretations of the definition of a street vendor, the legal status of vendors in many places remains unclear.

## Evictions Based on Exclusionary Definitions of a Street Vendor

In cases of eviction, the first question before the Court is to determine whether the petitioner is in fact a street vendor and therefore entitled to protection under the law. A strict interpretation of the Act would suggest that until participatory governance is up and running, and formal vendor enumeration is completed, all vendors are to be allowed to ply their wares.

Two high courts—the High Court of Delhi and the High Court of Himachal Pradesh—have added new criteria to determine who is a vendor and excluded many from the ambit of legal protection under the Act. In contrast, the High Court of Kerala adopted a more progressive approach, arguing that the Act extends protection to all vendors, irrespective of their current legal status.

1. Two legal repositories - SCC Online and Manupatra were used to get 64 unique results. Out of these 64 judgments, 57 were shortlisted and analysed. The rest either were not related to the act or were dismissed/withdrawn without a discussion on the merits.

**High Court of Delhi: Only Protects Vendors in Official but Outdated Lists-** The High Court of Delhi in 11 cases based its decision on the pre-2014 status of the vendor<sup>2</sup>. On the question of whether the petitioner was a licensed vendor, the Court gave primacy to the status of the petitioner as presented in three official lists: the lists of vendors prepared by the Thareja Committee in 1992, the Chopra Committee in 1996 and the NDMC in 2007.

If the name of the petitioner was absent from any of these lists, the Court held that the petitioner was not a 'regular' street vendor and, hence, not entitled to protection under Section 3(3). Even when presented with other proofs of vending identity and history, such as receipts and challans for payments made to municipal authorities, the Court was unmoved<sup>3</sup>. In cases where vendors produced vending licences, the Court rejected them on the basis that the licences had expired and vendors had not taken steps to renew it.

In *Bhikki Ram v. New Delhi Municipal Council* (2017), given the 'over-crowded area,' the NDMC allowed only those vendors to vend 'whose names find mention in the list of 628 eligible persons prepared by the NDMC or are licensed vendors or hawkers'. The Court chose not to interfere in the policy decision of the NDMC as long as the municipal corporation acted in a 'fair, just and uniform manner without any favour of any kind'.

In three cases, where the petitioners had their names in the official lists, the Court allowed eviction but directed the municipal agencies to relocate them.<sup>4</sup>

In all these instances, the Court did not pay heed to Section 3(3) of the Act, which states that 'no street vendor shall be evicted or, as the case may be, relocated till the survey... has been completed and the certificate of vending is issued to all street vendors'. Such judicial interpretation only protects a small number of vendors who have their names in official but outdated lists. Rather than penalising the tardy implementation of the Act, the Court imposes a penalty on the vendors who struggle to earn their livelihood.

**High Court of Himachal Pradesh: Adds A Caveat to the Definition of Vendor:** The High Court of Himachal Pradesh has gone a step further and added a son-of-the-soil qualification for availing protection under Section 3(3) of the Act (*Hari Ram v. State of Himachal Pradesh*, 2018). The Court stated:

*"26. It is also not that every hawker has got a right of protection from ejection/eviction, under the provisions of the Act ... There is no automatic application of the Act qua every vendor, who under misconception chooses to sit on any place or time on a public property, vending anything and everything. Persons, who come to the State, seeking employment, only on weekends or during tourist season, when tourists throng the State in large numbers, have no right of protection under the Act."*

The requirement for a vendor to be a state domicile lacks any mention in the Act, including Clauses 4 and 5 of Chapter 2 that specify the conditions for issuing a vending certificate. According to the Act, every street vendor who is above the age of 14 years and has been identified under the enumeration survey conducted by a TVC is to be issued a certificate of vending subject to certain terms and conditions.

**High Court of Kerala: Set Exemplary Inclusive Parameters for Defining 'Street Vendor':** The High Court of Kerala argues that the Act extends protection to all vendors irrespective of their legal status. In 2014, it disallowed evictions and allowed the petitioner to continue vending until the procedures laid out in the Act were implemented (*Thankappan v. The District Collector*, 2014). As opposed to the narrow interpretation of the Act adopted by the High Courts of Delhi and Himachal Pradesh in 2017 and 2018, respectively, the High Court of Kerala sets a desirable example of who ought to be considered a street vendor.

2. *Bachchu Singh v South Delhi Municipal Corporation* 2017; *Mahesh Kumar Yadav v North Delhi Municipal Council* 2017; *Raju Saha v South Delhi Municipal Corporation* 2018; *Sunil Kumar v Govt of NCT Delhi* 2017; *Girendra Pandit v South Delhi Municipal Corporation* 2017; *Khurshida Parveen v South Delhi Municipal Corporation* 2017; *Bhikki Ram and Ors v New Delhi Municipal Corporation* 2017; *Mohan Lal v New Delhi Municipal Council* 2018; *Rakesh Babu Gupta and Ors v New Delhi Municipal Council* 2017; *Sheetal Prasad Gupta v New Delhi Municipal Council* 2017.

3. These were receipts that were issued (as a part of an informal system) to the vendors in the 1980s, by the municipal authorities on payment of a small sum. While the system was banned in 1998, these old receipts are still used by the vendors, to negotiate with the authorities and establish their legitimacy.

4. *Mohan Lal v New Delhi Municipal Council* 2018; *Sheetal Prasad Gupta v New Delhi Municipal Council* 2017; *Virender v South Delhi Municipal Corporation* 2017.



## Evictions Based on Pre-2014 Demarcations of No-vending Zone

The Act prohibits municipal and local authorities from declaring no-vending zones until all vendors are listed and a TVC with vendor representation is established. Despite this, the High Court of Delhi allowed the municipal corporations to continue 'regular eviction drives'. In seven cases, the Court upheld the pre-2014 demarcation by municipal bodies as an additional ground to justify eviction. Although the Court specified that such no-vending zones remain valid only until the TVCs start functioning, it allowed interim eviction.<sup>5</sup> This interpretation contravenes Clause 3 of the First Schedule of the Act, which states that no-vending zones should not be declared before surveys are completed and plans formulated.

The view of the Court was challenged in *Vyapari Kalyan Mandal Main Pushpa v. South Delhi Municipal Corporation, 2017*. The petitioner argued that before 2013, the Supreme Court in *Sudhir Madan v. Municipal Corporation of Delhi*

(2009) and *Maharashtra Ekta Hawkers Union v. Municipal Corporation case (2013)* directed that any new legislation, when passed, will supersede existing schemes or Acts.

The petitioner argued that since the Act is in force, zoning demarcations should be governed by the Act and not by previous schemes or the 2009 policy. The Court however responded by noting that the Act 'merely prohibits any further declaration of no-vending zones and does not nullify the existing demarcation by the municipal authorities'. On the contrary, the Court tacitly recognised that certain areas might have already been declared as no-vending zones.

## Evictions Based on Balancing 'Public Interest'

Sections 3(13) and 4(18) of the Act mandate local authorities to relocate vendors, removed from a particular area due to any public purpose, in consultation with the TVC. Judgments passed by the High Court of Delhi and the High Court of Calcutta, however, allow for evictions based

5. *Bachchu Singh v South Delhi Municipal Corporation 2017*; *Arvind Gupta and Ors. v Govt. of NCT and Ors. 2017*; *Federation of Nehru Place Association v South Delhi Municipal Corporation and Ors. 2018*; *Footpath Dukandar Sangh and Ors. v State of Bihar and Ors 2017*; *Hari Ram v Ramesh Kumar 2017*; *Virender v South Delhi Municipal Corporation 2017*; *Vyapari Kalyan Mandal Main Pushpa v South Delhi Municipal Corporation 2017*.

on promoting public interest without any consideration for relocation.

In 2016, the High Court of Delhi allowed the civic agencies to evict vendors from no-vending zones declared prior to the enforcement of the Act to balance 'public interest' (WPC 6130/2016 vide order dated 05.10.2016). In 2017, the Court argued that 'Being pitched between the conflicting rights of the livelihood of the street vendors versus the life and security of the public in general, including the street vendors... we are of the opinion that the former must bow to the latter as without life and security, no question of earning a livelihood can arise' (Vyapari Kalyan Mandal Main Pushpa v. South Delhi Municipal Corporation, 2017).

Similarly, in 2017 (Gopal Sardar v. State of West Bengal, 2017), the High Court of Calcutta, while acknowledging that the petitioner cannot have a certificate of vending in the absence of TVCs, allowed for eviction of vendors in 'public interest,' that is the construction of an underground drainage system and widening of the road.

## Evictions Based on Misinterpretation of 'Overriding Effect' Clause

Section 33 of the Act 2014 gives it an overriding effect over all other laws, whether local or state, in case of inconsistencies. This prevents harassment of street vendors on the basis of other statutes, bye-laws or executive orders. Different high courts have, however, interpreted the provision in ways that still uphold and give precedence to state and municipal laws.

**High Court of Kerala: Overriding Effect Only Applicable in Case of Inconsistency:** The High Court of Kerala, in four cases, held that local permission requirements are overridden by the specific circumstances and nature of highways; and that in order to vend on land abutting highways, vendors need permissions from the National Highway Authority of India or under the Highway Protection Act of the state.<sup>6</sup> While the petitioners argued that the Act has an overriding effect, the Court observed that the effect is only applicable if there is any inconsistency. The Court held that there is nothing inconsistent between Street Vendors Act 2014, and the Control of the National Highway (Land & Traffic) Act, 2002.

The Act, under Section 1(4), expressly excludes some areas from its purview such as railway premises, land and trains, but makes no mention of highways. The judgement of the Court, in effect, exempts highways from the coverage of the Act.

**High Court of Madras: State Municipal Law Is Not Overwritten by the Act:** The High Court of Madras held that the state municipal law—Tamil Nadu District Municipalities Act 1920—is not overwritten by the Street Vendors Act 2014 (T. Ramalingam and Ors v. The Secretary to the Government and Ors, 2018). The Court allowed eviction as the Street Vendors Act 2014 is only "to protect the livelihood rights of the street vendors and to regulate their street vending activities." It noted that the Street Vendors Act 2014 is "regulatory in character" and the Tamil Nadu District Municipalities Act 1920, especially sections 180(A) and 182 that deal with removal of encroachment, are "mandatory". By laying emphasis on the "mandatory" clauses of the Tamil Nadu District Municipalities Act 1920, the Court gave it precedence over and above the Street Vendors Act, 2014.

**High Court of Gujarat: No Protection to Vendors if State Laws are Violated:** The High Court of Gujarat did not protect petitioners who operated 'illegal and unauthorised Pucca constructions' on a public street as it violated other state laws (Vakatar Samatbhai Ghusabhai v. State Of Gujarat, 2018).

## Eviction Decisions Deferred to Town Vending Committee

The High Court of Delhi has only selectively deferred cases to the TVC. In cases where there was no ground for the dismissal of vendor petitioners, the decision was deferred to the TVC without extending any interim protection. If, however, there was a basis to dismiss the vendor petitioner (due to the legal identity of the vendor or demarcation of no-vending zones), the Court did not defer the case to the TVC and decided against the vendors.

In Vijay Kumar Sahu and Ors v. Govt. of NCT and Ors, 2018, the petitioner-vendor contended argued that he had been vending at the same place for the past 21 years and was now being harassed. The area in question was not a no-vending zone, and hence the High

6. Saji Joy v The Executive Engineer, Public Works Department (PWD) NH Division and Ors, 2018; Sudheesh T.S v State of Kerala and Ors, 2018; V.Prabhakaran and Ors v National Highway Authority, Kozhikode and Ors, 2018; Abbas V. and Ors v State of Kerala and Ors, 2018.

Court of Delhi had no reason, even by its own yardstick, to deny the protection to the petitioner under Section 3(3) of the Act. Despite this, the Court deferred the decision and asked the petitioner to 'approach the TVC as and when it is functional, with all the supporting documents,' without granting any interim protection.

Contrastingly, in *Dwarka Sector-5 Vendors Association v. MCD and Ors, 2017*, the Court adjudicated on two questions—whether the petitioners have been vending at a particular spot, and for how many years—both being questions of fact. The Court investigated these questions, without deferring it to the TVC, and decided against the street vendors.

When faced with similar questions, the High Courts of Madras and Kerala referred the questions of fact to the municipal agencies or the TVCs. The courts asked the municipal agency or TVC (if constituted) to consider the application filed by the petitioner-vendor within the stipulated time and decide the matter giving a reasoned order.

## Vendors Lack Recourse to Challenge TVC Elections Voter Lists

Section 22(2)(c) of the Act mandates 40% representation of vendors in TVC elected by the vendors themselves. However, in the absence of a legal identity of vendors in most states, 'who can vote' remains a debatable question.

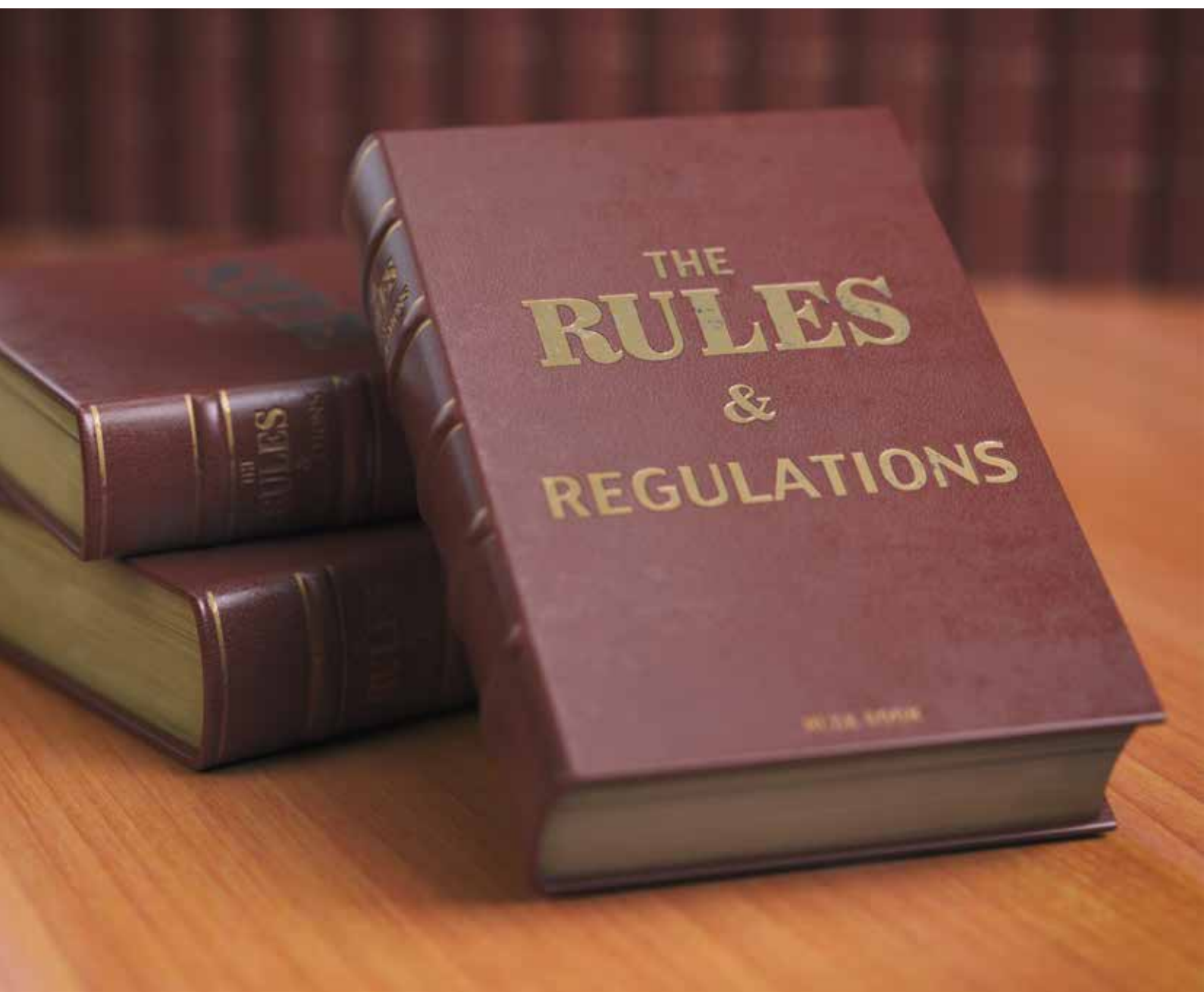
The Govt. of NCT of Delhi planned on following a two-step approach: The first step was to form TVCs elected by vendors in official lists. The second step was to task TVCs with enumerating all vendors prior to the second round of elections to form new TVCs.

The process for election, in the first step, was challenged by vendors in *Delhi Pradesh Rehri Patri Khomcha Hawkers Union and Ors v. South Delhi Municipal Corporation and Ors, 2018*. Petitioners argued that vendors did not have sufficient time to produce documents for verification and only 10% of them were eligible to vote. Vendors asked the Court to issue directions to the Delhi Municipal Corporation (DMC) to: display the zone-wise voter list, allow for more time for submission of documents and allow other street vendors to raise objections against voter lists. The High Court of Delhi approved the first two demands but disallowed vendors from raising objections to voter lists as it would have led to a delay in the election process.

A representative and well-functioning TVC is an essential feature of the Act. Disallowing vendors from raising objections against the list produced by the DMC may result in limited participation and vendor representation in TVCs.

Apart from the varying judicial interpretations that undermine essential features of the Act, what is more intriguing is that, in a number of high courts, there are no cases related to the Act. One may understand this to be a case of either utopia or dystopia. We do not know whether this is because the high courts have not admitted any cases, or street vendors are unaware of the law, or the implementation of the law is beyond reproach. In many cases where courts have given decisions, they have allowed evictions without relocation or heed to Section 3(3) of the Act that disallows any attempt to evict until processes laid out in the Act are implemented. The role of the Court in ensuring implementation and correction of the biases cannot be understated. All vendor reforms that we see today are an effect of Supreme Court rulings through the 1990s.

# What is the Quality of Delegated Legislation in each State?



The Act assigns state governments, local authorities and TVCs the responsibility to execute its provisions and oversee implementation. It also delegates rule-making powers to state governments. In this section, we review how each state fares on implementing the Act and the promises and perils of their rules and schemes.

What are rules? Section 36 of the Act requires states to formulate rules within one year from its commencement. The state notified rules largely elaborate how TVCs must be constituted, the term and allowances of TVC members, how elections must be conducted, the functioning of the GRCs, the manner of filing appeals and the manner in which records must be maintained.

What are schemes? Per Section 38 of the Act, state governments must frame schemes (in consultation with the TVC) within six months from the date on which their rules come into force. The state-notified schemes deal with matters such as the survey process, criteria for issuing vending certificates, governance of the vending zone and approach to eviction and relocation.

#### How are rules and schemes different?

1. **Subject matter:** The Act makes a clear distinction between the subject matter for rules and schemes. While rules set the framework for constituting institutions, schemes are concerned with specific implementation processes.
2. **Framing procedure and jurisdiction:** Since the Act mandates “due consultation with the local authority and the Town Vending Committee” and not consultation with ‘local authorities’ and ‘Town Vending Committees’, it appears that schemes were intended to be city-specific. In 2017, the High Court of Bombay struck down Maharashtra’s scheme on the grounds that it was not made in consultation with the TVC and local authority (Centre for Civil Society 2019). No state has instituted city-specific schemes.

#### What are some recurrent issues across state rules and schemes?

1. **Powers vested in the state government or local authority to remove any member of the TVC or to dissolve the Committee:** In Arunachal Pradesh, Bihar, Goa, Haryana, Karnataka, Nagaland, Andaman & Nicobar, Chandigarh, Daman & Diu, Delhi rules empower state governments to remove any TVC member. States like Kerala, Meghalaya and Lakshadweep empower

the local authority to remove any TVC member. Other states like Haryana, Kerala, Tamil Nadu, Daman & Diu, Delhi allow state governments to dissolve a TVC. The Act does not vest such powers in the state government.

2. **Ambiguity in the term and formation of TVCs:** Notified rules of Haryana, Karnataka, Sikkim, Tripura, Delhi, Lakshadweep and Puducherry direct formation of a TVC “prior to the expiry of its term” or “before the expiry of their term.” This mandate is confusing. It implies that TVC members must be nominated before their term expires. Instead, it should convey that new members must be nominated for the subsequent term before the current term expires.
3. **“Compensation” for designating private land as a vending zone:** In Arunachal Pradesh, Bihar and Nagaland, the schemes prescribe “compensation” for declaring any private land as a vending zone. It is unclear whether this provision implies an involuntary expropriation. The Act does not mention expropriation. Without express authorization in the parent Act, should state governments assume the power to expropriate (even with compensation)?
4. **Ambiguity in the definition of “holding capacity”:** Per Section 2(1)(b) of the Act, holding capacity is the maximum number of street vendors who can be accommodated in a vending zone. However, in the schemes notified by Andhra Pradesh, Rajasthan and Telangana, holding capacity is defined using the term “vending site” that is not elaborated either in the scheme or in the Act.
5. **Structure of the Appellate Committee:** Per Section 20 of the Act, state governments may form Grievance Redressal Committees led by a retired civil judge/ judicial magistrate. Appeals against the decisions of the committee are required to be filed before the local authority. This may be contrary to the principle of separation of powers. The Grievance Redressal Committee has a judicial member and adjudicates disputes by following a judicial procedure. On the other hand, a local authority is an administrative body and is not competent to adjudicate judicial disputes. The rules should have directed the local authority to constitute a separate appellate committee with a civil judge/ judicial magistrate. Mizoram is the only state that has constituted an appellate committee with a District Session judge as the head. Other states have constituted

appellate committees headed by the Mayor or President of the local authority.

While 33 states (including union territories) have notified rules, only 26 states have notified schemes<sup>7</sup>. In the section below, we provide an implementation snapshot for 34 states and union territories. First, we present a summary of each state's performance on the Compliance Index. Second, we review all state rules and schemes to highlight provisions that depart

from the letter and intent of the Act, provisions that are ambiguous and those that do not place any checks on actions of the executive. We state reasons for all provisions that we find problematic.

Our analysis does not cover Jammu and Kashmir and Ladakh. As of 2019, both have become separate union territories and the Act will eventually be applicable to them.

## ANDHRA PRADESH

### The Andhra Pradesh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules

Dated: 31.03.2017

1. The provision on issuance of vending certificates discriminates against non-residents: Rule 3(2) discriminates against non-residents in issuing identity cards and vending certificates. It also excludes non-residential vendors from accessing welfare schemes. However, the Act does not authorise or prescribe any segregation based on residential status.
2. State government's power to dissolve TVCs is arbitrary and beyond the Act: Rule 4(4) empowers the state government to dissolve a TVC if it "...persistently makes default in the performance of its imposed on it...or exceeds or abuses its powers". There are three problems with this provision:
  - Rules do not define or guide what constitutes such defaults, excesses or abuse.
  - There is no obligation on the state government to record reasons.
  - The parent Act does not envisage or vest such a power in state governments.
3. There are multiple and conflicting provisions

on quorum between the rules and schemes:

- Clause 1(b) of the scheme defines 51% as quorum for TVC meetings but the quorum is a subject matter of the rules, not schemes.
- Rules contain multiple conflicting provisions on quorum. Rule 4(6)(a)(iii) prescribes two thirds of the total strength as quorum but, Rule 4(6)(a)(v) prescribes half of the TVC strength plus one as the quorum.

### The Andhra Pradesh Scheme

Dated 16.06.2016

1. **The provision entitled "terms and conditions" does not list any terms and conditions:** Clause 4 of the scheme—titled "terms and conditions subject to which certificate of vending may be issued to a street vendor..." does not list any terms and conditions for issuing certificates of vending.
2. **Procedure for issuing certificates of vending is ambiguous:** Clause 5 states: "After verification of payment of required registration fees, nature of vending and allotment of vending zone, the Commissioner approves the local status of applicant in the software, then the vending certificate will be generated electronically."

7. As of March 2020.



Clause 6 on “the form and manner of issuing identity cards” has a similar provision. There are two issues with these provisions:

- Per the Act, TVC is responsible for the issuing certificates of vending and identity cards. It is not clear why the Municipal Commissioner is required to verify fee payment, nature of vending and vending zone allotment.
- The meaning of “local status” is unclear and not defined in the rules.

3. **“Prime area of street vending” is not defined:** Clause 14 prescribes conducting an audit in the “prime area of street vending” every six months. However, the rules do not define “prime area of street vending” or the manner of selecting such an area.

4. **The scheme deals with matters beyond its scope:** Clause 18 deals with matters such as the structure of TVCs, the functioning of TVCs and maintenance of records. Per the Act, these matters are to be covered under the state rules.

5. **Instead of outlining zoning principles, the scheme empowers the state government to issue guidelines:** Clause 20 on “Principles for determination of vending zones”, prescribes no principles and leaves it to the state government “to issue necessary guidelines and principles...from time to time” for demarcating vending zones. This

provision is problematic for two reasons:

- It creates uncertainty for the local authorities to undertake zoning.
- The Act does not envisage ad hoc issuance of zoning guidelines. It lays down two possibilities—either the scheme does not deal with zoning and the guidance given in clause 3 of the First Schedule to the Act would be adequate, or the scheme should clearly lay down the zoning principles in advance so local authorities can decide.

6. **The definition of holding capacity is ambiguous and different from the Act:** Clause 21 on “Principles for determining the holding capacity of vending zones” has two issues:

- The provision defines holding capacity in terms of area: “vending site divided by the total area of the vending area and that space is to be provided shall be 2.5% of the total area”. Per Section 2(1)(b) of the Act, holding capacity is the maximum number of street vendors who can be accommodated in a vending zone.
- Neither rules nor the Act define the term “vending site”—making it difficult to understand the formula used to determine holding capacity.

## ARUNACHAL PRADESH

### Arunachal Pradesh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2018

Published on 11.03.2019 vide notification no. DTP/STREET VENDOR-01/2016/17

1. **Judicial members should head the Appellate Committee instead of the Mayor or President of the local authority:** Rule 9 prescribes an Appellate Committee chaired by the Mayor or President to hear appeals

against the decisions of the Grievance Redressal Committee. The Appellate Committee should have a judicial member as the head for two reasons:

- The committee is required to follow the judicial procedure for dispute resolution.
- The committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure.

2. **The provision empowering the state government to remove any TVC member goes beyond the Act and the grounds of removal are vague:** Per Rule 16(a), the government can remove any TVC member if he “persistently makes defaults in the performance of his duties” or “exceeds or abuses its power”. There are two problems with this provision:
  - The provision does not define or guide what constitutes such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government. Even though the proviso to Rule 16 prescribes a hearing before removal, a procedural safeguard is not a substitute for clear definition and clear delegation of power.
3. **The provision on convening a TVC meeting does not mention the mode of intimation:** Rule 19(3) prescribes the notice for TVC meetings to be issued seven days prior to the meeting. Rule 19(1) allows for a special meeting to be called within 72 hours. However, both provisions do not mention how vendor representatives would be intimated about the meetings at short notice.
 

government and what happens next is unclear.
3. **Misbehaviour as a ground for cancelling vending certificates goes beyond the Act:** Clause 10(3) prescribes repeated misbehaviour with women vendors (based on written complaints filed by the aggrieved) as grounds for cancelling the vending certificate. The provision does not prescribe any judicial procedure. The Act does not mention misbehaviour as a ground for cancellation.
4. **The provision for designating private places as vending zones goes beyond the Act:** Clause 22 prescribes “compensation” for declaring any private land as a vending zone. The compensation can take the form of an additional floor space index, floor area ratio or transferable development rights. The provision is not clear on whether compensation implies an involuntary expropriation. The Act does not authorize expropriation. Without express authorization, the scheme should not assume the power to expropriate and compensate private parties.

### The Arunachal Pradesh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2016

Notification no. DTP/STREET  
VENDOR-02/2016-17

1. **The provision empowering the local authority to handle applications for vending certificates is contrary to the Act:** Clause 6(i) empowers the local authority to handle the applications for vending certificates during the intervening period between two surveys. However, per Section 4(2) of the Act, TVCs are entrusted with this responsibility.
2. **Instead of defining the categories of vending, the scheme directs the local authority to report them to the state government:** Per Section 6 of the Act, a scheme may define the categories of vending for issuing vending certificates. However, Clause 13 of the scheme directs the local authority to report the categories to the state government. The objective of reporting the categories to the state



## ASSAM

### Assam Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2016

Published on 26.02.2016 vide notification no. GDD.29/2008/Pt./277

1. **The provision allowing vendor associations to conduct elections on their own saves administrative time and resources:** Rule 5 directs the local authority to issue an election notice every three years specifying the number of representatives to be elected and the designated vendor associations who will hold the elections. This is in contrast to other state rules that lay down a detailed procedure for election. This provision may save administrative resources and time by letting the vendor associations manage elections.
2. **Mutually conflicting provisions on the frequency of TVC meetings create ambiguity:** Rule 6 states that “TVC shall meet twice in a quarter”. However, sub-rule (a) mandates a meeting every month or as prescribed by the Chairperson.
3. **Local authority acting as an appellate body is against the principle of separation of powers:** While the Act prescribes appeals from Grievance Redressal Committee to be heard by the local authority, this may be contrary to the principle of separation of powers. The Grievance Redressal Committee has a judicial member and adjudicates a dispute on merits, following a judicial procedure. A local authority is an administrative body and is not competent to adjudicate judicial disputes. The rules should have directed the local authority to constitute a separate appellate committee having a senior judicial officer.

**Scheme** - As of writing this report, Assam has not notified a scheme yet.



## BIHAR

### The Bihar Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017

Published on 15.02.2017 vide notification no. 04/SV(NULM)- 04/2015/414/UD&HD

1. **Rules prescribe nomination of vendor representatives instead of elections to form TVCs:** Rule 4 prescribes an application cum sortition method for the nominating vendors to the TVC. This is contrary to section 22(2)(d) of the Act that mandates vendor representatives to be elected.
2. **The provision empowering the state government to remove any TVC member goes beyond the Act and the grounds of removal are vague:** Per rule 4.1, the government can remove any TVC member if he “persistently makes defaults in the performance of his duties” or “exceeds or abuses its power”. There are three issues with this provision:
  - Rules do not clearly define what constitutes such defaults, excesses or abuse.
  - The parent Act does not vest such powers in the state government.
  - Even though the proviso to rule 4.1 prescribes a hearing before removal, a procedural safeguard is not a substitute for clear definition and does not legitimize undelegated power.
3. **The provision prescribing a low quorum allows a small unrepresentative group to make decisions:** Per rule 6(9), the quorum for TVC meetings is a mere one third. This enables a small unrepresentative group to make decisions on behalf of the committee. While the Act does not prescribe minimum quorum, such a provision is likely against the participatory spirit of the Act.

4. **Judicial members should hear appeals instead of the Mayor or President of the local authority as prescribed:** Rule 15 empowers the Mayor or the Chairperson of the local authority to hear appeals under section 20(4) of the Act. Instead, the local authority should form an Appellate Committee with a judicial member heading it for two reasons:
  - The committee is required to follow judicial procedure for dispute resolution.
  - The committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure.

### The Bihar Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2017

Published on 16.02.2017 vide notification no. 04/SV(NULM)-04/2015- 415/UD&HD

1. The provision for cancellation or suspension of a vending certificate includes dicta not concerned with the subject matter: Clause 13 enlists 10 grounds (i-x) for cancellation or suspension of a vending certificate. Sub-clauses (ix) and (x) have two issues:
  - The subject-matter of these sub-clauses is beyond the jurisdiction of the TVC. Clause 13(ix) on misbehaviour with women vendors, allows TVCs to constitute a women-led committee “to take into account the Domestic Violence Act, 2005, Harassment at the workplace (Prevention, Prohibition and Redressal) Act-2013 and also Indian Penal Code”. These provisions appear outside the scope of the TVC and the parent Act.

- These provisions do not explicitly establish a link between their prescriptions “misbehaviour with other women vendors” or “forming a women-led committee” and the title of the provision—“the manner in which the certificate of vending may be suspended or cancelled”. Sub-clause (ix) prescribes giving a warning to a vendor who is “guilty of misbehaviour with women vendors” but does not mention cancellation or suspension of the vending certificate. Sub-clause (x) prescribes constituting a committee but does not mention any condition of breach that could lead to suspension or cancellation of the vending certificate.
2. **A mandatory annual hike of minimum 10% in the vending fee is arbitrary:** Clause 16 imposes a minimum 10% annual increase in the vending fee. Such a hike would double the fee in seven years, and may end up being higher than the inflation rate. Instead, the hike in vending fee could be linked to the consumer price index or the actual rate of inflation.
  3. **The provision for designating private places as vending zones goes beyond the Act:** Clause 22 prescribes “compensation” for declaring any private land as a vending zone. The compensation can be in the form of an additional floor space index, floor area ratio or transferable development rights. The provision is not clear on whether compensation implies an involuntary expropriation. The Act does not authorize expropriation. Without express authorization, the scheme should not assume the power to expropriate and compensate private parties.
  4. **The provision mandating a service record book is arbitrary and beyond the Act:** Clause 26(5) imposes a condition on vendors to keep a service record book that TVCs may access and decide to give a “prize” or impose “fine”. There are two problems with the provision:
    - The provision does not divulge any parameters for judging.
    - The Act has no such provision.



## CHHATTISGARH

### The Chhattisgarh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2015

Published on 20.11.2015 vide notification no. F5-36/2015/18

1. Rules prescribe nomination of vendor representatives instead of elections to form TVCs: Rule 5(2)(c) directs the vendors’ guild to nominate 10 vendors, failing which the municipal office is required to nominate 10 vendors. This is contrary to Section 22(2)(d) of the Act that mandates vendor representatives to be elected.

### The Chhattisgarh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2016

Published on 21.10.2016 vide notification no. F 5-36/2015/18

1. **The provision on surveys is ambiguous:** Clause 3 prescribes two ways to survey vendors—forming a survey team and engaging an agency. The provision is unclear on whether both are mandatory.
2. **The provision directing TVCs to audit their own accounts makes a semantic error:**

Clause 10(3) directs TVCs to annually audit its bank account. "Audit" by definition means an inspection by a third party. This provision is likely a semantic error, but important to rectify.

3. **The provision for the suspension/ cancellation of vending certificates includes trivial, excessive and irrelevant grounds:** Clause 13 has 13 grounds for suspension/ cancellation of vending certificates. There are three issues with the list:
  - The list includes crimes and offences punishable under other laws. For example, selling drugs/ explosives, eve-teasing, and child labour are illegal and punishable under other laws. The parent Act does not mention these offences. Similarly, municipal laws may have mandated sanitation norms or banned the use of plastic bags. Non-compliance with these standards attract penalties as prescribed under municipal laws. In our opinion, cancelling vending certificates based on this list requires an express provision in the parent Act.
  - Some grounds are vague or trivial. For example:
    - » Non-compliance with "standards of hygiene". The scheme does not define "standards of hygiene" or refer to any other regulation for its definition.
    - » Clause 13(1)(c) mentions littering as a ground for cancellation of vending certificates. Similarly, Clause 13(1)(e) cites the ignorance of traffic rules as a ground. Cancelling certificates of vending on these grounds may be disproportionate.
  - The provision does not clearly law down any guidance for deciding the extent/ degree of penalty from suspension to cancellation and merely lists various grounds of varying severity.
4. **Overcrowding as a ground for relocating vendors is contrary to the Act:** Clause 16(1)(b) lists overcrowding as a ground for relocating vendors. Per section 18 of the Act, relocation of vendors requires an area to be declared as a no-vending zone. Clause 3(c) of the First Schedule (read with section 21 of the Act) prohibits declaration of a zone as a no-vending zone due to overcrowding. This provision is contrary to the Act.

5. **Some grounds for eviction are trivial, vague or arbitrary:** Clause 17 lists 13 grounds for eviction. Amongst these, some are trivial, vague or arbitrary. For example, evicting a vendor for littering (Sub-clause. d) could be seen as a disproportionate penalty. 'Misbehaviour' (Sub-clause. h) without any detailed definition is vague. Eviction of a vendor based on a complaint against them by more than 80% of vendors (Sub-clause. m) is arbitrary. The scheme does not define "vendors"—either in terms of category or in terms of area. This makes the Sub-clause vague.
6. **The provision on social audit is ambiguous:** Clause 22 elaborates on the "manner and form of social auditing of the activity of TVC". Sub-clause 8 directs the TVC to prepare "a database of this information collected through social audit". However, the provision does not identify any committee/ agency for conducting the audit or prescribe what data is to be collected.
7. **The provision on the conditions for designating a private place as a vending zone is not clear:** Clause 23 lays down the conditions for designating a private place as a vending zone. Sub-clause (1) and (2) prescribes an agreement between landowners and "vendor of the ULB." It is not clear what this agreement is for and who the "vendor of the ULB" is. The scheme does not define these terms. Designating a private place as a vending zone should be a matter of regulation and the factors for determination may be civic amenities and infrastructure such as sanitation, garbage disposal, water, parking. Without definitions, it is difficult to interpret the provision.
8. **The Act empowers the local authority, not the TVC to determine zoning:** Section 21 of the Act empowers the local authority to decide the vending zones, in consultation with the planning authority and on the recommendations of TVC. However, Clause 28(1) directs the TVC to determine the zoning. This is contrary to the Act.



## GOA

### The Goa Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2016

Published on 19.10.2016 vide notification no. 10/369/2015/DMA/Part/2021

1. **The provision on convening TVC meetings does not mention the mode of intimation:** Rule 5(5) directs the member secretary to issue a notice seven days prior to holding a meeting. Rule 5(7) allows for a special meeting to be called within 72 hours. However, these provisions do not mention how vendor representatives would be intimated about the meetings in a short time.
2. **The provision empowering the state government to remove any TVC member goes beyond the Act, and the grounds for removing a member from TVC are vague:** Rule 7(1)(c) empowers the state government to remove any member from office if, in the opinion of government, the member is “guilty of any misconduct or neglect of duty or has abused his position as to render his continuance as member detrimental to the interests of the committee or of the general public.” There are two problems with this provision:
  - Rules do not clearly define what constitutes “misconduct”, “neglect” or “abuse”.
  - The parent Act does not vest such power in the state government.
3. **Local authority as an appellate body is against the principle of separation of powers:** While the Act prescribes the appeals from Grievance Redressal Committee to be heard by the local authority, this may be contrary to the principle of separation of powers. The Grievance Redressal Committee has a judicial member and adjudicates a dispute on merits, following a judicial procedure. A local authority is an administrative body and is not competent to adjudicate judicial

disputes. The rules should have directed the local authority to constitute a separate appellate committee with a senior judicial officer.

### The Goa Street Vendors (Protection of Livelihood, Regulation of Street Vending and Licensing) Scheme, 2017

Published on 8.02.2018 vide notification no. 10/369/2015/DMA/Part/3200

1. **The suspension of a certificate of vending without notice in certain instances is against the Act:** Section 10 of the Act clearly mandates a pre-hearing for suspension of the vending certificate. However, Clause 12(3) does away with hearing in case the suspension of the vending certificate is for less than seven days. This is contrary to the Act.
2. **The provision on zoning is ambiguous and difficult to comprehend:** Clause 20 of the scheme deals with zoning. There are two issues with this provision:
  - This provision is a multi-level numbered list. Sub-clause (2) of the provision has three sub sub-clauses from (a) to (c). Clause 20(2)(c) has two points from (i) to (vi). Point (ii) has 5 sub-points from (a) to (e). Sub-point (b) has 6 sub-sub-points from (i) to (vi). The multilevel list may be confusing for a reader to comprehend.
  - Clause 20(2)(c)(ii)(b)(i) seems to lay down a rule (prohibition on stationary vending at narrow roads) and its exemption (street vending allowed if the narrow road is a non vehicular road). But the use of a different phrase: street vending in the second sentence instead of using stationary vending disconnects the rule and the exemption. The extent of the rules and its exemption becomes difficult to comprehend.

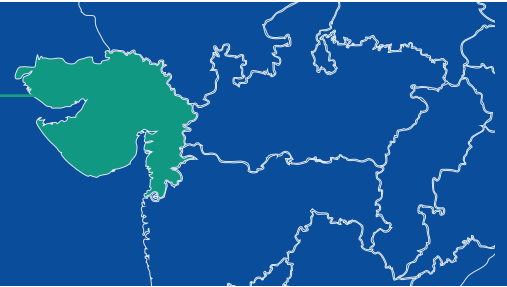
3. **The provision empowering police to make recommendations and TVCs to handle zoning-related objections is not as per the Act:** Clause 20 deals with zoning and presents two issues:

- Clause 20(2)(c)(ii)(e) allowing any person to challenge the zoning before the TVC is problematic. Instead, the local authority should hear the objections to zoning. Per Section 18 of the Act empowers local authorities

to demarcate zones and the TVC can at best make recommendations to the local authority.

- Per Clause 20(2)(b), Police can make recommendations to the local authority but the local authority may accept, modify or reject the recommendations. However, the Act does not envisage any inputs on zoning from the police.

## GUJARAT



### The Gujarat Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2016

Published on 21.12.2016 vide notification No. GH/H/224 of 2016/NLM/102016/302/H

1. **Judicial members should head the Appellate Committee instead of the Mayor as currently prescribed:** Rule 21 prescribes constituting an Appellate Committee chaired by the Mayor to hear appeals against the decisions of the Grievance Redressal Committee. The Appellate Committee should have a judicial member as the head for two reasons:

- The Committee is required to follow the judicial procedure for dispute resolution.
- The committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure.

### Gujarat Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2018

Dated 10.12.2018 published vide notification No. GH/H/177 of 2018/NLM/102016/308/H

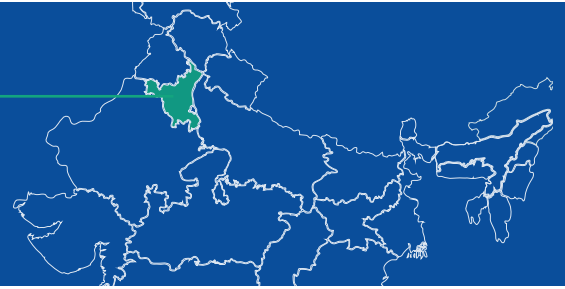
1. **The provision empowering the local authority to decide on the certificate of vending allocation is against the Act:** Per the Act, TVCs should decide the applications

for certificate of vending during the intervening period between two surveys and allocate new sites. However, Clause 5 (vii) and (viii) empowers local authorities to identify new sites and allot spots to new applicants. This is contrary to the Act.

2. **Form I survey questionnaire is long and intrusive:** Form-I survey questionnaire is 15-pages long and has 112 questions. It seeks more information than what is legally required under the Act. Some of these questions may be intrusive and unnecessary. For example, the survey questionnaire asks information on procurement sources and frequency, seed capital, daily sales, profit, loan, insurance, and previous vocation.
3. **The purpose of directing the local authority to report additional categories to the state government is not clear:** Clause 12 directs the local authority to report to the state government if there are any categories of vendors other than 'stationary' and 'mobile' vendors. The objective behind this provision is unclear. A local authority may simply register other categories instead of reporting them to the state government.
4. **The provision for relocation does not mention any notice period:** Section 18(3) of the Act mandates a 30-day notice period before relocation. However, Clause 14 of the scheme does not mention any notice period for relocation.



# HARYANA



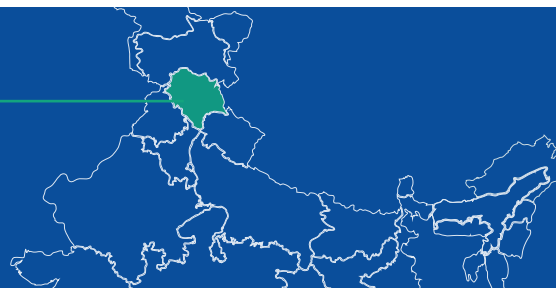
## Haryana Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017

Dated 31.01.2017 published vide notification no. 2/2/2017-RII

1. **The provision on the term and formation of TVC is ambiguous: Rule 7(2) states: “the process of constituting a TVC shall be completed:-** (a) prior to the expiry of its term; or (b) in case of the dissolution, within a period of six months.” This implies: form a TVC before its term expires. Instead, the provision should mean: constitute a new TVC before the current one expires, or “the process of constituting a new TVC shall be completed within a period of six months prior to the expiry or within six months of the dissolution of existing TVC.”
2. **The provision empowering the state government to remove any TVC member goes beyond the Act and prescribes vague grounds for removal:** Per Rule 8, the government can remove any TVC member for performance defaults or abuse of powers. There are two problems with this provision:
  - Rules do not clearly define what constitutes such defaults, excesses or abuse.
  - The Act does not envisage or vest such a power in the State Government.
  - While the proviso to Rule 16 prescribes a hearing before removal, a procedural safeguard is not a substitute for clear definition and does not legitimize undelegated power.
3. **The provision empowering the state government to dissolve a TVC is arbitrary:** Rule 8 and 9 empowers the government to dissolve a TVC if it “persistently makes defaults in the performance of duties . . . or exceeds or abuses its powers”. This provision has three issues:
  - Rules do not clearly define what constitutes such defaults, excesses or abuse.
  - The Act has no such provision envisaging dissolution of TVC.
  - The rule has no procedural safeguards such as an obligation to record reasons or issuance of notice and hearing.

**Scheme** - As on the date of writing this report, Haryana has not notified a scheme yet.

## HIMACHAL PRADESH



### The Himachal Pradesh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2016

Dated 5.02.2016 published vide notification No. UD-A(3)-13/2015

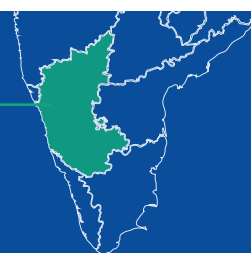
1. **Local authority acting as an appellate body is against the principle of separation of power:** While the Act prescribes the appeals from Grievance Redressal Committees to be heard by the local authority, this may be contrary to the principle of separation of powers. The Grievance Committee (with a judicial member) adjudicates disputes following a judicial procedure. A local authority, an administrative body, is not competent to adjudicate judicial disputes. The scheme could have directed the local authority to constitute an Appellate body having a judicial member.

### Himachal Pradesh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2016

Published on 28.02.2017 vide notification No. UD-A(3)-13/2015

1. **The provision empowering the local authority to decide on vending certificate allocation is against the Act:** Clause 5 (vii) and (viii) empowers local authorities to identify new sites and allot spots to new applicants. This is contrary to the Act. Per the Act, TVCs should decide on vending certificate applications during the intervening period between two surveys and allocate new sites.
2. **Form I-the Application form for a vending certificate misses mandatory particulars:** Per section 6 of the Act, vending certificates should contain information about days, timings, conditions and restrictions. Form-1 "Street Vendor Certificate" does not state the conditions and restrictions and misses out the heads for days and timings of vending.

## KARNATAKA



### The Karnataka Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules

Published on 12.06.2018 vide notification no. SDEL 41 ELS 2018

1. **Rule envisaging provisional TVCs is laudable:** The Act prescribes constituting
2. **The provision on the term and formation of TVC is ambiguous:** Rule 7(2) "the process

TVCs with elected vendor representatives to conduct surveys. But, elections require a voter list based on surveys. The Act is not clear on what comes first: survey or TVC? Rule 4 addresses this conundrum by constituting provisional TVCs with nominated vendor representatives.

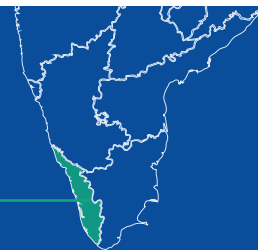
of electing or nominating, as the case may be, of the members on the committee shall be completed before the expiry of their term” is confusing. The provision implies that TVC members must be nominated before their term expires. Instead, the provision should convey: nominate new members for the subsequent term before the current term expires, or “the process of electing or nominating, as the case may be, of the new members on the committee shall be completed before the expiry of the current TVC.”

3. **The provision empowering the state government to remove any TVC member goes beyond the Act, and the grounds of removal are vague:** Per Rule 8, the government can remove any TVC member if he “persistently makes defaults in the performance of his duties” or “exceeds or abuses its power.” There are three problems with this provision:
  - Rules do not clearly define what constitutes such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government.

- While the proviso prescribes a hearing before removal and an appeal against the removal order, procedural safeguards do not justify vague grounds and undelegated power.
4. **Judicial members should head the Appellate Committee instead of the Mayor or President of the local authority as currently prescribed:** Rule 22 prescribes an Appellate Committee to be constituted for handling the appeals. The Mayor or President as the chairperson heads this Committee. The Committee will hear appeals from the Grievance Redressal Committee. The Appellate Committee should have a judicial member heading it for two reasons:
    - The Committee is supposed to follow the judicial procedure for dispute resolution.
    - The Committee hears appeals arising from the decisions of the Grievance Redressal Committee—consisting of a civil judge/ judicial magistrate along with two other members.

**Scheme** - As of writing this report, Karnataka has not notified a scheme yet.

## KERALA



### Kerala Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2016

1. **The provision empowering the local authority to remove any TVC member goes beyond the Act and the grounds of removal are vague:** Per Rule 8, the local authority can remove any TVC member for performance defaults or abuse of powers. There are two issues with this provision:
  - Rules do not clearly define what constitutes such defaults, excesses or abuse.
  - The Act does not envisage or vest such a power in the local authority.
2. **The provision empowering the local authority to dissolve the TVC is beyond the Act, and the grounds for dissolution are vague:** Rule 9 allows a local authority to dissolve the TVC if the TVC “persistently makes defaults in the performance of duties” or “exceeds or abuses its power”. There are three problems with this provision:
  - The Act does not delegate such powers to the local authority.
  - Rules do not clearly define what constitutes such defaults, excesses or abuse.
  - Municipal Commissioner chairing the TVC may dilute the status of the TVC.

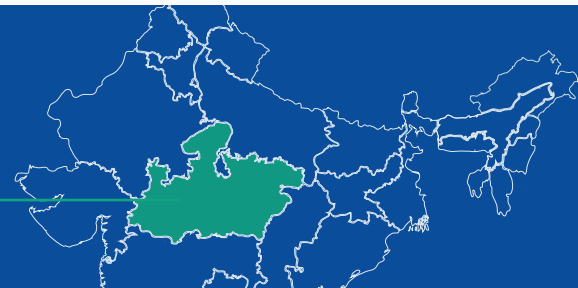
### Kerala Street Vendors (Protection of Livelihood, Regulation of Street Vending and Licensing) Scheme, 2015

1. **The formula for calculation of vending fee is ambiguous:** Clause 9 fixes the vending fee in terms of the 'guideline value'. For example, the vending fee for a stationary vendor using space of up to 10 sq ft will be 1% of the guideline value subject to a minimum of Rs. 750/- per annum. But, 'guideline value' is not defined in the scheme.
2. **Suspension of the vending certificate without notice in certain instances is against the Act:** Section 10 of the Act mandates a pre-hearing for the suspension of vending certificates. However, Clause 12(3) allows a TVC to suspend a certificate without any hearing, if it is to be suspended for less than seven days. This is contrary to

the Act.

3. **The provision on zoning is not as per the Act:** Section 18 of the Act directs the local authority to decide zoning on the recommendations of TVC. However, Clause 20(2)(b) of the scheme prescribes a consultation with traffic police or police. It also empowers the local authority to "accept, modify or reject the recommendations with due reasoning and designate a place or location as vending zone". Clause 20(1) empowers TVCs to identify and declare vending zones, no vending zones and restricted vending zones and Clause 20(3) directs the TVC to review the zoning every three years. It is not clear who takes the final decision on zoning.

## MADHYA PRADESH



### Madhya Pradesh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017

Dated 24.04.2017 published vide notification no. 11/F 1-4-2017- XVIII-3

1. **The provision empowering the Commissioner to dissolve the TVC is beyond the Act, and the grounds for dissolution are vague:** Rule 10 allows the Commissioner to dissolve the TVC if the TVC "persistently makes difficult (sic) in the performance of duties" or "exceeds or abuses its power". There are two problems with this provision:
  - The Act does not delegate such powers to the Commissioner.
  - Rules do not clearly define what it means for a TVC to "make difficult (sic) in the performance of duties".

2. **The provision prescribing a low quorum allows a small unrepresentative group to make decisions on behalf of the committee:** Per rule 11(3), the quorum for TVC meetings is merely one third. This enables a small unrepresentative group to make decisions on behalf of the committee. While the Act does not prescribe any minimum quorum, such a provision is likely against the participatory spirit of the parent Act.

**Scheme** - As of writing this report, Madhya Pradesh has not notified a scheme yet.

# MAHARASHTRA



## The Maharashtra Street Vendors (Protection of Livelihood and Regulation of Street Vending) (Maharashtra) Rules, 2016

Dated 03.08.2016 published vide notification no. NHP.2014/c.R. 403/UD-34

1. **Judicial members and not the Mayor or President of the local authority should head the Appellate Committee:** Rule 9 prescribes an Appellate Committee to be constituted for handling appeals. This Committee is to be chaired by the Mayor or President. The Committee will hear appeals from the Grievance Redressal and Dispute Resolution Committee. The Appellate Committee should have a judicial member heading it for two reasons:
  - The Committee is required to follow the judicial procedure for dispute resolution.
  - The Committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure.
2. **The provisions empowering the Municipal Commissioner and the state government to veto TVC proposals go against the Act:** Rule 22 of these rules vests powers in the Municipal Commissioners and the state government to overrule TVC proposals. This Rule may go beyond the mandate of the parent Act for the following reasons:
  - Section 33 of the Act expressly supersedes other local laws. However, Rule 22(10) and (11) of the Maharashtra Street Vendors Rules, 2016 allows the Municipal Commissioner as well as the state government to veto TVC proposals in case of conflict with local laws. Prima facie, Rule 22 appears to circumvent the Act.
  - A local authority or the state government may misuse their veto powers to make the TVC dysfunctional. The only recourse against misuse will be to approach the courts. Such recourse may be too expensive and time-consuming for street vendors.
  - Deciding whether a TVC proposal violates another law would be a judicial function. Vesting the power of judicial review in an executive body, to review the actions of another executive body for “legality”, is a violation of the doctrine of separation of powers. Scheme Bombay High Court in *Azad Hawkers Union v. Union of India* (MANU/MH/2574/2017) refused to regard the scheme dated 9 January 2017 as a legitimate scheme under Section 38 of the Act because the state government did not consult the TVCs or the local authority as statutorily mandated.

# MANIPUR



## The Manipur Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2016

Published on 02.05.2016 vide notification no. 7/1/2015-MAHUD

1. **Judicial members should head the Appellate Committee instead of the Mayor or President of the local authority as currently prescribed:** Rule 9 prescribes an Appellate Committee to be constituted for handling appeals from the Grievance Redressal and Dispute Resolution Committee. This Committee is to be chaired by the Mayor or President. The Appellate Committee should have a judicial member heading it for two reasons:
  - The Committee is required to follow the judicial procedure for dispute resolution.
  - The Committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure.

## The Manipur Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2018

Published on 01.12.2018 vide notification no. 23/4/2014-MAHUD

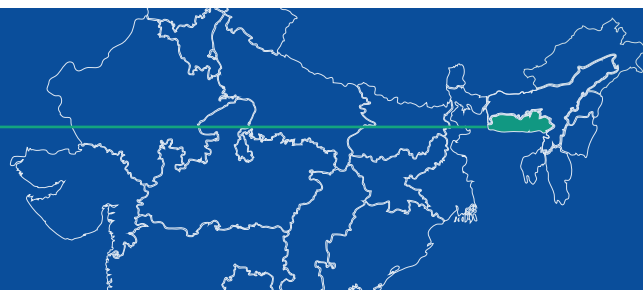
1. **The provision lists vague grounds for the cancellation of certificate of vending and goes beyond the Act:** Clause 10(2) entails the cancellation of the certificate of vending of a street vendor for misbehaving with women. There are two issues with this provision:

- The provision does not define misbehaviour.
- The Act does not prescribe misbehaviour as a ground for cancellation. Therefore, the provision goes beyond the Act.

2. **The provision allowing the suspension of vending certificates without notice in certain instances is against the Act:** Section 10 of the Act mandates a hearing before suspending vending certificates. However, Clause 10(4) allows a TVC to suspend a vending certificate without hearing if it is to be suspended for less than seven days. This is contrary to the Act.
3. **The provision for designating private places as vending zones lists several conditions that are vague or undefined:** Clause 15 prescribes a permission-based regime for vending in private places. Permission is subject to the following factors:
  - absolute necessity
  - street vendors' welfare
  - accommodating the relocated vendors
  - holding capacity.

The first two are vague and not defined in the scheme. The objective for including the last two conditions is not clear for vending in a private place. The provision should have laid down clear grounds for disallowing vending in private space. For example, vending in private space would be shut down for causing a nuisance to neighbours, or for unhygienic conditions.

# MEGHALAYA



## Meghalaya Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017

Published on 22.06.2017 vide notification no. UAU./1/2011/Pt/368

1. **The provision allowing less than 40% street vendor representation in a TVC is contrary to the Act:** Per Rule 3, TVC has 12 official members, two representatives of local markets association, two representatives of trader association, a representative from the local Dorbar and only three street vendor representatives. This makes the TVC a 21-member body with only three street vendor representatives (less than 15%). This is contrary to Section 22(2)(d) of the Act that mandates 40% street vendor representation in TVC.
2. **Rules prescribe nomination instead of election of street vendor representatives for forming a TVC :** Rule 4 directs the TVC Chairperson to nominate the vendor members. This is contrary to Section 22(2)(d) of the Act that mandates street vendor representatives to be elected.
3. **The provision empowering the local authority power to remove any TVC member goes beyond the Act and the grounds of removal are vague:** Per Rule 16(a), the state government can remove any TVC member if he “persistently makes default in the performance of his/her duties” or “exceeds or abuses its power”. There are two problems with this provision:
  - Rules do not clearly define what would constitute such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government. The proviso to Rule 16 prescribes a hearing before removal as a procedural safeguard.
4. The provision prescribing a low quorum enables a small unrepresentative group to make decisions: Per Rule 8(v), the quorum

for TVC meetings is merely one third. This enables a small unrepresentative group to make decisions on behalf of the committee. While the Act does not prescribe any minimum quorum, one-third quorum may not be in accordance with the participatory spirit of the Act.

## The Meghalaya Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2017

Published on 29.06.2017 vide notification no. USU./1/2011/Pt/369

1. **The provision restricting various modes of street vending such as vending with a pushcart, motorised vehicle and the hanging frame go beyond the Act:** Clause 3(v) restricts pushcart, motorised vehicle, floor spread, reach and hanging frame for street vending. Clause 12 further prohibits the use of handcarts. Clause 3(v) mandates special permission by a nodal officer “on adequate justification and recommendation of the local authority.” This kind of special permission may breed corruption and bribery that the Act sought to protect the vendors from.
2. **The provision empowering the local authority to handle the certificate of vending applications is contrary to the Act:** Per Section 4(2) of the Act, TVC is entrusted with this responsibility to issue certificates of vending during the intervening period. However, Clause 15(i) empowers the local authority to handle the applications for vending during the intervening period of two surveys. This is contrary to the Act.
3. **The provision directing the local authority to report the categories of vending to the state government has no rationale:** Per Section 6 of the Act, a scheme may define the categories of vending for the purpose of issuance of the certificate of vending. Clause 22 of this scheme, instead of defining the

categories other than stationary and mobile, leave it to the local authority to report the categories to the state government. There are two issues with this provision:

- It is not clear why a local authority should report other categories to the state government. The provision does not mention what the state government should do next once the additional categories are reported to it.
- Clause 23 is titled as “the vendors can also be categorised with reference to the places from where they are operating” and it enlists six other categories—natural markets, weekly markets, heritage markets, festive markets, night bazaar and seasonal markets. Hence, the objective of Clause 22 is not clear.

4. **Misbehaviour as grounds for cancellation of certificate of vending goes beyond the Act:** Clause 19(iii) prescribes cancellation of the certificate of vending of a street vendor for repeatedly misbehaving with women vendors. There are three issues with this provision:

- The provision does not define misbehaviour.
- The provision goes beyond the Act as the Act does not prescribe misbehaviour as a ground for cancellation.
- There is no judicial procedure prescribed for cancellation and a written complaint filed by the aggrieved person is enough for cancellation.

5. **The ban on roadside cooking goes beyond the Act:** Clause 34(ii) prohibits roadside cooking. However, the Act has no such restriction.

6. **The provision mandating a service record book is arbitrary and beyond the Act:** Clause 34(ii) imposes a condition on vendors to keep a service record book that TVC may check and give a reward or impose a penalty. There are two problems with this provision:

- The provision does not divulge any parameters for judging and therefore, it is arbitrary.
- The Act has no such provision.

## MIZORAM

### Mizoram Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017

Published on 07.11.2017 vide notification no. 27009/1973

1. **Rule envisaging provisional TVCs is laudable:** The Act prescribes constituting TVCs with elected vendor representatives to conduct surveys. But, elections require a voter list based on surveys. The Act is not clear on what comes first: survey or TVC? Rule 5 addresses this conundrum by constituting provisional TVCs with nominated vendor representatives.

2. **Rules prescribe an Appellate Committee led by a district sessions judge to avoid the violation of the separation of powers:** Section 20 of the Act prescribes making an appeal against decisions of the Grievance Redressal Committee to the local authority. This provision may violate the principle of separation of powers. The Grievance Redressal Committee headed by a civil judge/ judicial magistrate follows a judicial procedure for adjudicating disputes. An appeal from a judicial body must be heard by a judicial committee/ tribunal, rather than an administrative body. Rule 21 constitutes an appellate committee headed by a district session judge. Mizoram is the only state with this provision.



### Mizoram Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2017

Published on 30.11.2017 vide notification no. B.13017/88/2017-UD&PA

1. **The provision empowering the local authority to handle the certificate of vending applications is contrary to the Act:** Per Section 4(2) of the Act, TVC is entrusted with this responsibility to issue the certificates of vending during the intervening period. However, Clause 8(1) empowers the local authority to handle the applications for vending during the intervening period of two surveys. This is contrary to the Act.
2. **Misbehaviour as a ground for cancellation of certificate of vending goes beyond the Act:** Clause 11(5) prescribes cancellation of the certificate of vending of a street vendor for repeatedly misbehaving with women vendors. There are three issues with this provision:
  - The provision does not define misbehaviour.
  - The Act does not prescribe misbehaviour as a ground for cancellation.
  - There is no judicial procedure prescribed for cancellation and a written complaint filed by the aggrieved person is enough for cancellation.

3. **The provision directing the local authority to report the categories of vending to the state government has no rationale:** Per Section 6 of the Act, a scheme may define the categories of vending for the purpose of issuance of the certificate of vending. However, Clause 13 of this scheme instead of defining the categories other than stationary and mobile leave it to the local authority to report the categories to the state government. It is not clear why a local authority should report other categories to the state government. The provision does not mention what the state government should do next once the additional categories are reported to it.
4. **Several conditions for designating private places as vending zones are vague and undefined:** Clause 22 prescribes a permission-based regime for vending in private places. The basis for permission is subject to the following factors:
  - absolute necessity
  - street vendors' welfare
  - accommodating the relocated vendors
  - holding capacity.

The first two are vague and not defined in the scheme. The objective for including the last two conditions is not clear for vending in a private place. The provision should have laid down clear grounds for disallowing vending in private space.

## NAGALAND

### Nagaland Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2019

Published on 15.04.2019 vide notification no. UDD/8-NULM/09-SUSV/2016

1. **Rule envisaging provisional TVCs is laudable:** The Act prescribes constituting TVCs with elected street vendor

representatives to conduct surveys and allocate the certificates of vending. But elections require a voter list based on surveys. The Act is not clear what comes first: survey or TVC? Nagaland addresses this issue by constituting provisional TVCs with unelected street vendor representatives. The state government will nominate all the members to TVC. The duration of provisional TVC will be one year

or until the survey-based elections are held, whichever is earlier. Only three states—Karnataka, Mizoram and Nagaland—have this provision.

2. **The provision empowering the state government to remove any TVC member goes beyond the Act and the grounds of removal are vague:** Per Rule 8, the government can remove any TVC member “persistently makes defaults in the performance of his duties” or “exceeds or abuses its power”. There are two problems with this provision:
  - Rules do not clearly define what would constitute such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government.
3. **Judicial members should head the Appellate Committee instead of the Chairperson of the local authority as currently prescribed:** Rule 9 prescribes an Appellate Committee to be constituted for hearing appeals from the Grievance Redressal Committee (GRC). This Committee is to have a chairperson and two other members of the local body. This Committee should be led by a judicial member instead of the Mayor or President of the local authority for two reasons:
  - The Committee is required to follow the judicial procedure for dispute resolution.
  - The Committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure.
2. **Misbehaviour not a subject matter of this Act:** Clause 10(3) prescribes cancellation of the certificate of vending of a street vendor for repeatedly misbehaving with women vendors. There is no judicial procedure prescribed for cancellation and a written complaint filed by the aggrieved person is enough for cancellation. The Act does not have such a provision.
3. **The purpose of directing the local authority to report additional categories to the state government is not clear:** Per Section 6 of the Act, a scheme may define the categories of vending for the purpose of issuance of the certificate of vending. However, Clause 13 of this scheme instead of defining the categories other than stationary and mobile leave it to the local authority to report the categories to the state government. It is not clear why a local authority should report other categories to the state government. The provision does not mention what the state government should do next once the additional categories are reported to it.
4. **The provision for designating private places as vending zones goes beyond the Act:** Clause 22 prescribes compensation for declaring any private land as a vending zone. The compensation can be in the form of additional floor space index or floor area ratio or transferable development rights. It is unclear whether this provision of compensation implies an involuntary expropriation. The Act does not authorise expropriation. In the absence of express authorisation, the scheme should not assume the power to expropriate and compensate private parties.

### Nagaland Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme-2019

Published on 15.04.2019 vide notification no. UDD/8-NULM/09- SUSV/2016

1. **The provision empowering the local authority to handle the certificate of vending applications is contrary to the Act:** Clause 6(i) empowers the local authority to handle the applications for vending during the intervening period of two surveys. However, per Section 4(2) of the Act, TVC is entrusted with this responsibility to issue certificates of vending during the intervening period.

# ODISHA



## The Odisha Street Vendor (Protection of Livelihood and Regulation of Street Vending) Rules

Published on 07.07.2015 vide notification SRO 311/2015

1. **The provision on the formation of TVC structure goes beyond the Act:** Rule 3 prescribes a 12-member TVC. TVC will have the Municipal Commissioner as the Chairman of the TVC, an NGO representative, a traders' association representative, an RWA representative, a bank representative, a Corporator or Councillor, an officer of the planning authority, a police officer (superintendent or his nominee) and four street vendor representatives. There are two issues:
  - The percentage of vendor representatives in TVC is less than 40% as statutorily mandated.
  - Rules empower the Chairperson to nominate the street vendor representatives to TVC. But the Act prescribes an election for this purpose

## The Odisha Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2015

Published on 07.07.2015 vide notification no. SRO No. 310/2015

1. **The provision allowing the suspension of vending certificates without notice in certain instances is against the Act:** Clause 9 allows a TVC to suspend the certificate of vending of a street vendor without hearing if it is to be suspended for less than thirty days. The provision mandates reasons to be recorded in writing. However, the proviso

to section 10 of the Act explicitly mandates a pre-hearing for the suspension of the certificate of vending. This is contrary to the Act.

2. **The provision prescribing a registration fee to receive vending certificates goes beyond the Act:** Clause 7(1) provides for an application fee as well as a renewal fee of Rupees 100. However, Section 8 of the Act allows for a vending fee only, payable after the issuance of the certificate of vending and has no provision for any fee for the issuance of certificate of vending.
3. **The provision prohibiting a proxy vendor should have allowed an exception for family members:** Clause 7(1) prohibits a vendor from letting any other person carry on street vending on her behalf. However, Section 5(a) of the Act allows a street vendor to sell through his family.

## PUNJAB

### The Punjab Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2015

Dated 12.02.2015 published vide notification no.5/11/2015-5lg4/413009/1

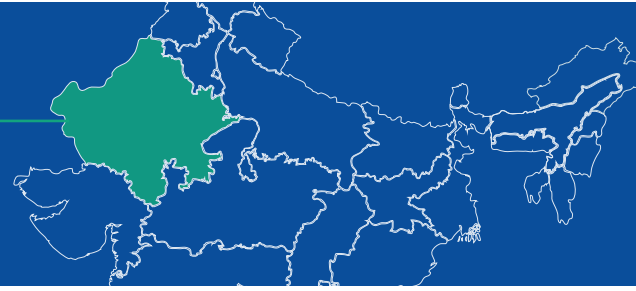
1. **Rule 7 enables a small unrepresentative group to make decisions on behalf of the TVC:**
  - Rule 7(7) fixes one-fourth of the total members as the quorum for conducting TVC meetings. The rule enables a small unrepresentative group to make decisions on behalf of the committee. While the Act does not prescribe any minimum quorum, such a low quorum is not in accordance with the participatory spirit of the Act.
  - In the absence of a quorum, the Chairperson will adjourn the meeting and fix another date. However, per rule 7(9), a quorum is not required for holding the adjourned meeting. This implies that an unrepresentative minority can make decisions on behalf of the committee.

### The Punjab Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2016

Published on 03.03.2016 vide notification no. 5/11/2015-5lg4/702470/1

1. **The provision prescribing an application fee for certificate of vending goes beyond the Act:** Clause 4 of the scheme prescribes a fee of Rs. 500 to apply for a certificate of vending. Section 8 of the Act prescribes a vending fee after the issuance of certificate of vending. However, the Act does not mention any application fee. This provision goes beyond the Act.
2. **The provision directing the local authority instead of the TVC to conduct social audit goes against the Act:** Clause 18 directs a local authority to constitute social audit committees for conducting a social audit. Per Section 26 of the Act, a TVC should carry out a social audit.
3. **The provision limiting vendors to sell pre-specified goods is too restrictive:** Clause 27(VI) and (X) allow street vendors to sell only those goods as specified on the certificate of vending. The provision limits the vendor's freedom to sell different goods.
4. **The provision allowing a TVC instead of local authority to demarcate zones goes against the Act:** Rule 23(2) allows a TVC to demarcate vending areas. However, Section 21 of the Act empowers the local authority to do the zoning demarcation.

# RAJASTHAN



## The Rajasthan (Protection of Livelihood and Regulation of Street Vending) Rules

Dated 15.02.2016 published vide notification No.F8(Ga)(15)Rules/DLB/15/1144

1. **The provision on holding an adjourned TVC meeting without quorum enables an unrepresentative minority to make decisions:** Rule 7(3) mandates a quorum of minimum two-third of the total members. The Chairperson will adjourn the meeting and fix another date in the absence of a quorum. However, a quorum is not required for holding the adjourned meeting. This implies that an unrepresentative minority can make decisions on behalf of the committee.

## The Rajasthan (Protection of Livelihood and Regulation of Street Vending) Scheme, 2017

Dated 05.09.2017 notification no. F-(GA)( )Rules/QLB/17/32733

1. **The scheme has no deadline for issuance of vending certificates:** The provisions dealing with issuance of vending certificates (such as Clause 4, Clause 7, and Clause 8) do not mention any timeline for issuing these certificates to a new entrant during two intervening surveys.
2. **The provision specifying the minimum age for vending goes beyond the scope of a scheme:** S.5(iii) prescribes minimum age for vending (18 years) which is the subject matter of rules not schemes.
3. **The provision mandating a service record book is arbitrary and beyond the Act:** S. 23(4) mandates all vendors to keep a “vending service record book” ready for inspection by TVCs/ local authority staff. There are three problems with this provision:

- The provision does not divulge any parameters for judging and therefore, is arbitrary.
  - The provision mentions a penalty but does not define it.
  - The Act has no such provision.
4. **The provisions on zoning go against the parent Act:** The Act lists the subject matters to be covered under state schemes in the Second Schedule. Clause (z) of the Second Schedule prescribes principles of zoning. This is subject to Clause (3) of the First Schedule that lists the principles for demarcating no-vending zones. Here are some issues in the relevant provisions of the scheme:
    - Clause 27(2) and 27(3)(a) declare that “there shall be no totally restricted free vending zone”. It is not clear what the provision intends to imply by ‘restriction-free vending zones’. Instead of defining restrictions and their rationale, the scheme attempts to justify the potential of no-vending zones ex-ante.
    - Clause 28 defines the holding capacity in two ways: sub-clause (1) defines holding capacity as 2.5% of the local population. Sub-clause (2) defines holding capacity as the “vending site divided by total area of vending”. However, the terms “vending site” and “total area of vending” are not defined in the scheme.

## SIKKIM

### The Sikkim (Protection of Livelihood and Regulation of Street Vending) Rules

Published on 27.06.2017 vide notification no. GOS/UD&HD/6(168)/13/1425

1. **The provision on the term and formation of TVC is ambiguous:** Rule 15(2) mandating completion of election or nomination of TVC members "before the expiry of their term" implies: form the committee before its term expires. Instead, it should convey: nominate new members for the subsequent term before the current term expires. Or "the process of electing or nominating, as the case may be, of the new members on the committee shall be completed before the expiry of the current TVC."

2. **The provision on holding an adjourned TVC meeting without quorum enables an unrepresentative minority to make decisions:** Rule 7(3) mandates a minimum two-third of the total number of members. The Chairperson will adjourn the meeting and fix another date, in the absence of a quorum. However, a quorum is not required for holding the adjourned meeting. This implies that an unrepresentative minority can make decisions on behalf of the committee.

**Scheme** - As of writing this report, Sikkim has not notified a scheme yet.

## TAMIL NADU

### Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2015

Published on 2.11.2015 vide notification no. SRO-A/19(c-2)/2015

1. **The provision empowering the local authority to dissolve the TVC is beyond the Act and the grounds for dissolution are vague:** Rule 9 allows a local authority to dissolve the TVC if it "persistently makes defaults in the performance of his duties" or "exceeds or abuses its power". This provision is a problem for two reasons:
  - The Act does not delegate this power to the local authority.

- The provision does not define what constitutes defaults in performance or abuse of powers.

### Tamil Nadu Street Vendors (Protection of Livelihood, Regulation of Street Vending and Licensing) Scheme, 2015

Published on 2.11.2015 vide notification no. SRO-A/19 (c1)/2015

1. **Suspension of the vending certificate without notice in certain instances is against the Act:** Section 10 of the Act explicitly mandates a pre-hearing for the suspension of the certificate of vending. However, Clause 12 allows a TVC to suspend the certificate of vending of

a vendor without hearing if it is to be suspended for less than seven days. This is contrary to the Act.

2. **The provision mandating the concurrence of TVC for relocation is laudable:** Clause 13(1) lists certain conditions for relocation. Clause 13(2) allows deviation from these conditions after recording reasons. However, the concurrence of TVC is a non-negotiable condition for relocation. This would help to curb the arbitrariness in eviction and relocation.
3. **The provision on time-sharing based vending leaves “adverse consequences” undefined:** Clause 22 prescribes “adverse consequences” in cases of breach of assigned hours of vending. However, the provision does not define “adverse consequences”.
4. **The provision on zoning sets out unrealistic deadlines for deciding objections to zoning:** Clause 20(2)(c) allows any person aggrieved by zoning to make a representation to

the TVC. It directs the TVC to decide the objection within fifteen days or in the next meeting, whichever is earlier. This is problematic because a TVC cannot make any decision without holding a meeting. It effectively implies that the timeline for deciding on objections is fifteen days and all the zoning related objections must be dealt with, in one meeting.

5. **The provision on the allocation of certificates of vending treats existing vendors and fresh applicants alike and goes against the Act:** Clause 21(3) prescribes the draw of lots for certificate of vending allocation. However, it is silent on the existing vendors. Per the Act, existing vendors should get preference over the new applicants. This clause should have explicitly mentioned preferential treatment to existing vendors over new applicants.

## TELANGANA

### Telangana State Street Vending Scheme, 2016

Dated 05.01.2016

1. **Multiple and inconsistent provisions on survey create confusion:** Clause 2.1 directs ULBs to develop a suitable strategy for conducting surveys and Clause 2.2 directs the survey to be conducted through community resource persons. However, Clause 2.9 makes the TVC responsible for conducting the survey.
2. **The provision for document verification is ambiguous:** Clause 2.4 of the scheme mandates a random verification of the survey data. However, Clause 2.5 mandates the verification of address proof documents, particularly in case of migrant vendors, during the survey. There are two issues:
  - The provision is not clear on whether

the address proof-verification should be done for all vendors or for a random sample.

- The provision offers no guidance on how the verification is to be done.
3. **The provision on vending certificates refers to a missing annexure:** Clause 5 of the scheme refers to the form of vending certificate in the annexure, but the scheme does not have an annexure.
  4. **The provision allowing registration fee is beyond the Act:** Clause 8 provides for a registration fee. However, the Act only allows for a vending fee—payable after the vending certificate is issued.
  5. **The provision dealing with TVC formation and its functioning is beyond the scope of scheme:** Clause 18 of the scheme deals with the constitution and functioning of TVC. However, per Section 36 of the Act, these

are subject matters of the rules and not the scheme.

6. **The definition of holding capacity is ambiguous and different from the Act:** Clause 21 titled as “Principles for determining the holding capacity of vending zones” has two issues:

- The Clause defines holding capacity in terms of area: “vending site divided by the total area of the vending area and that space is to be provided shall be 2.5% of the total area”. Per Section 2(1) (b) of the Act, holding capacity is the maximum number of vendors who can be accommodated in a vending zone.

- The Act or the rules do not define the term “vending site”.

7. **The provision envisaging the exit of a vendor after 20 years is ambiguous and beyond the Act:** Clause 26 allows allotment of stalls for ten years and a one-time extension of another ten years. After 20 years, a vendor would not be qualified for the allotment. There are two issues:

- The reference point for reckoning the 20-years period is not clear.
- The Act has no such prescription to permanently disqualify vendors after 2 consecutive renewals of the certificate of vending.

## TRIPURA



### Tripura Street Vendor (Protection of Livelihood and Regulation of Street Vending) Rules, 2016

Published on 21.06.2016 vide notification no.F.14(6)-UDD/DUD/ 2015/1827- 52

1. **The provision on the term and formation of TVC is ambiguous:** Rule 7(2) “the process of electing or nominating, as the case may be, of the members shall be completed before the expiry of their term” is confusing. This simply means: nominate members before their term expires. Instead, the provision should convey: nominate new members for the subsequent term before the current term expires, or “the process of electing or nominating, as the case may be, of the new members on the committee shall be completed before the expiry of the current TVC.”

### Tripura Street Vendors (Protection of Livelihood, Regulation of Street Vending and Licensing) Scheme, 2016

Published on 21.06.2016 vide notification no.F-14(6)- UDD/DUD/2015/1853-78

1. **Local Voter-ID as eligibility for vending certificate is beyond the Act:** Clause 2.15 mandates that the vendor must be a registered voter of Tripura. The Act does not prescribe this requirement.
2. **The provision on the verification of documents prescribes no guidance for scrutiny:** Clause 2.16 specifies no parameters for scrutiny of documents submitted as proof of vending. Instead, it provides for careful and thorough scrutiny. The lack of instruction on what parameters/ indicators to consider may encourage arbitrary exclusion.
3. **The provision banning roadside cooking goes beyond the Act:** Clause 4.22 prohibits cooking at the vending site. The Act has no such restriction. The scheme introduces a substantial restriction curtailing the scope of street vending without a legislative mandate.
4. **The provision prohibiting electricity and water connection goes beyond the Act:** Clause 4.23 prohibits electricity and water connection to vendors. The Act has no such prohibition. Instead, Section 17 of the Act directs vendors to pay for the civic amenities and facilities.



5. **Contradictory provisions on the use of an umbrella/ shed are confusing:** Clause 4.17 mandates that "... street vending shall be open to sky". However, Clause 4.4 allows for the use of sheds and umbrellas. Contradictory provisions create confusion.
6. **The provision empowering the local authority instead of the Town Vending Authority to cancel or suspend the certificate of vending goes beyond the Act:** Clause 12.1 empowers the designated officer of the local authority to suspend or cancel a certificate of vending. This goes against the Act. Section 10 of the Act clearly vests this power in the TVC.
7. **The provision prescribing a 3-day release period for seized goods goes against the Act:** Clause 20.2 allows upto three days for releasing non-perishable goods from date of claim. Section 19(2) of the Act mandates releasing non-perishable items within 2 working days from the date of claim.

## UTTAR PRADESH

### Uttar Pradesh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2017

Dated 10.05.2017 published vide notification no. 111/9-9-2017- 170ja/2006

1. **Some provisions go beyond the scope of rule-making:** Rules contain provisions with regard to issuance of certificate of vending (Rule 14), zoning (Rule 15), creation of new vending markets (Rule 16) and cancellation or suspension of the certificate of vending certificate of vending (Rule 17), conditions of vending (Rule 18), relocation (Rule 19), eviction (Rule 20), seizure (Rule 21) and issuance of ID (Rule 22). These are subject matters of the scheme and not rules.
2. **The composition of Grievance Redress Committee is contrary to the Act:** As per rule 25, Grievance Committee consists of the Mayor/ Chairperson and two other members of the local authority. Section 20 of the Act clearly mandates a former civil judge or judicial magistrate and two other professionals in the Committee. The proviso to section 20 clearly prohibits appointment of any employee of the State Government

or the local authority as members of the Committee. It is a clear contravention of the Act.

3. **The provision prescribing a low quorum enables a small unrepresentative group to make decisions:** As per Rule 8, the quorum for TVC meetings is merely 1/3rd of the total members. It enables a small unrepresentative group to make decisions on behalf of the Committee.

### Uttar Pradesh Scheme for Street Vendors 2016

Published on 9.09.2016 vide notification no. 818/9-9-2016-170ja/2006

1. **Page number 3 is missing in the scheme available online.**
2. **The provision on holding capacity is ambiguous:** Clause 3(za)(1) defines holding capacity based on "section 3(2) of the parent Act which would not be more than 2.5% of the population of the town as per census 2011". Instead, the provision should have referred to the last/latest census.

## UTTARAKHAND



### The Uttarakhand Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules

Dated 25.05.2016 notification no.825/IV(2)-UD-2016-246(Gen)04-TC1

The rules are not under Section 36 of the Street Vendors Act 2014. Instead, the rules are

under Section 300(1) of Uttarakhand (the Uttar Pradesh Municipalities Act, 1916) (Adaptation and Modification Order, 2002), and Section 540(2) of Uttarakhand (the Uttar Pradesh Municipal Corporations Act, 1959) (Adaptation and Modification Order, 2007).

**Scheme** - As of writing this report, Uttarakhand has not notified a scheme yet.

## WEST BENGAL



### The West Bengal Urban Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules

Published on 27.06.2018 vide notification no. 461/MA/O/C-4/1A10/2011 (Pt.II) 26

1. **No quorum is required for holding an adjourned TVC meeting:** Rule 7(3) mandates a minimum two-third members as quorum. The Chairperson will adjourn the meeting and reschedule, in the absence of a quorum. But, a quorum is not required for holding the adjourned meeting. This provision allows an unrepresentative minority to take decisions on behalf of the Committee.
2. **Zoning is beyond the scope of rules:** Rule 9(e) and (i) lists instructions for TVCs to demarcate zones. However, specific guidelines and principles for determination of zones are to be laid out in the vending plan and the scheme—not the rules.
3. **The provision directing TVC to make recommendations for the identification of special markets is unclear:** Rule 9(h) directs the TVC to give recommendations to

the local authority for declaration of special markets. However, the rules do not specify whether:

- local authority is bound to accept all TVC recommendations;
  - local authority is bound to offer reasons for rejecting recommendations.
4. **The provision banning the use of fire goes beyond the Act:** Rule 14(3) does not expressly ban cooking but it prohibits the use of fire. It is problematic for a large number of vendors who sell freshly cooked snacks or meals. The Act does not have this restriction.
  5. **The provision banning the use of tarpaulin and discouraging temporary structures goes against the Act:** Rule 14(4) bans the use of tarpaulin for covering the kiosk. It adds: “other temporary structures shall be avoided as far as practicable”. A vendor, by definition [S. 2(l) of the Act], includes a person vending from a temporary built structure. This rule contravenes the Act.

**Scheme** - As of writing this report, West Bengal has not notified a scheme yet.

## ANDAMAN & NICOBAR

### The 'Union Territory of Andaman & Nicobar Islands' Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules

Dated 27.07.2015 published vide notification no. G.S.R. 584(E)27

1. Judicial members should head the Appellate Committee instead of the Mayor or President of the local authority as prescribed: Rule 9 prescribes an Appellate Committee to be constituted for handling appeals from the Grievance Redressal and Dispute Resolution Committee. The Mayor or President is required to Chair this Committee. The Appellate Committee should have a judicial member heading it for two reasons:
  - The Committee is required to follow the judicial procedure for dispute resolution.
  - The Committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure
2. The provision empowering the state government to remove any TVC member goes beyond the Act, and the grounds of removal are vague: Per Rule 16(a), the government can remove any TVC member if he "persistently makes defaults in the performance of his duties" or "exceeds or abuses its power". There are three problems with this provision:
  - Rules do not define or guide what would constitute such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government.
  - While the proviso to Rule 16 prescribes a hearing before removal, a procedural safeguard is not a substitute for clear definition and does not legitimize the undelegated power.

3. Mode of intimation for convening a TVC meeting is not mentioned: Rule 19(3) prescribes the TVC meeting notice to be issued 7 days prior to the meeting. Rule 19(1) allows for a special meeting to be called within 72 hours. However, both these provisions do not mention how vendor representatives would be intimated about the meetings particularly when at short notice.

### The Andaman & Nicobar Islands Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2016

Dated 26.12.2016 published vide notification no. 232/2016/F.No.3-131/2014-UD

1. Sub-delegating the power to fix the vending fee to multiple authorities creates confusion: Section 8 of the Act delegates the function of fixing fees to the state government and directs it to specify the vending fee or its formula in the scheme. Through Clause 6(ii), the state government empowers the local authority to fix the vending fee. However, Clause 10 also sub-delegates this power to the TVC to fix the vending fee.

# CHANDIGARH

## The 'Union Territory of Chandigarh' Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules

Dated 27.07.2015 published vide notification no. G.S.R. 586(E)

1. **Judicial members and not the Mayor or President of the local authority should head the Appellate Committee:** Rule 9 prescribes constituting an Appellate Committee for handling the appeals from the Grievance Redressal and Dispute Resolution Committee. The Committee should be led by a judicial member instead of the Mayor/ President for two reasons:
  - The Committee is required to follow the judicial procedure for dispute resolution.
  - The Committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure
2. **The provision empowering the state government to remove any member of the TVC goes beyond the Act and the grounds of removal are vague:** Per Rule 16(a), the government can remove any TVC member if he "persistently makes defaults in the performance of his duties" or "exceeds or abuses its power". There are the following problems with this provision:
  - The provision does not define what constitutes such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government.

- While the proviso to Rule 16 prescribes a hearing before removal, a procedural safeguard cannot be a substitute for clear definition and does not legitimise undelegated power.

3. **The provision on convening a TVC meeting does not mention the mode of intimation:** Rule 19(3) prescribes the TVC meeting notice to be issued before 7 days of TVC meeting. Rule 19(1) allows for a special meeting to be called within 72 hours. However, both these provisions do not mention how the street vendor representatives would be intimated about the meetings at short notice.

## The Chandigarh Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2016

Published on 30.09.2016 vide notification no. 6/1/203-FII(8)- 2016/9199

1. **Sub-delegating the power to fix the vending fee to multiple authorities creates confusion:** Section 8 of the Act delegates the function of fixing fees to the state government and directs it to specify the vending fee or its formula in the scheme. Through Clause 6(ii), the state government empowers the local authority to fix the vending fee. However, Clause 10 sub-delegates this power to the TVC to fix the vending fee.

# DADRA AND NAGAR HAVELI

## Union Territory of Dadra and Nagar Haveli' Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules

Dated 27.07.2015 published vide notification no. G.S.R. 585(E) 28

1. **Judicial members and not the Mayor or President of the local authority should head the Appellate Committee:** Rule 9 prescribes constituting an Appellate Committee for handling the appeals from the Grievance Redressal and Dispute Resolution Committee. The Committee should be led by a judicial member instead of the Mayor/ President for two reasons:

- The Committee is required to follow the judicial procedure for dispute resolution.
- The Committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure

2. **The provision empowering the state government to remove any TVC member goes beyond the Act and the grounds of removal are vague:** Per Rule 16(a), the government can remove any TVC member if he "persistently makes defaults in the performance of his duties" or "exceeds or abuses its power". There are three problems with this provision:

- The provision does not define what constitutes such defaults, excesses or abuse.
- The parent Act does not envisage or vest such a power in the state government.
- While the proviso to Rule 16 prescribes a hearing before removal, a procedural safeguard is not a substitute for clear definition and does not legitimise undelegated power.

3. **The provision on convening a TVC meeting does not mention the mode of intimation:** Rule 19(3) prescribes the TVC meeting notice to be issued before 7 days of TVC meeting. Rule 19(1) allows for a special meeting to be called within 72 hours. However, both these provisions do not mention how the street vendor representatives would be intimated about the meetings at short notice.

## Dadra and Nagar Haveli the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2016

Dated 10.10.2016 published vide notification no. TPS/107(121)/SVACT-2014/298

1. **Sub-delegating the power to fix the vending fee to multiple authorities creates confusion:** Section 8 of the Act delegates the function of fixing fees to the state government and directs it to specify the vending fee or its formula in the scheme. Through Clause 6(ii), the State government empowers the local authority to fix the vending fee. However, Clause 10 also sub-delegates this power to the TVC to fix the vending fee.
2. **Mutually conflicting provisions on who will fix the vending fee create ambiguity:** Clause 6(ii) empowers the local authority to fix the vending fee but Clause 10 delegates this power to the TVC to fix the vending fee. Section 8 of the Act delegates this function to the state government and directs it to specify the vending fee or its formula in the scheme.

## DAMAN AND DIU

### 'Union Territory of Daman and Diu' Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules

Published on 28.07.2015 vide notification no. G.S.R. 585(E)29

1. **Judicial members and not the Mayor or President of the local authority should head the Appellate Committee:** Rule 9 prescribes constituting an Appellate Committee for handling the appeals from the Grievance Redressal and Dispute Resolution Committee. The Committee should be led by a judicial member instead of the Mayor/President for two reasons:
  - The Committee is required to follow the judicial procedure for dispute resolution.
  - The Committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure
  
2. **The provision empowering the government to dissolve TVCs is arbitrary:** Rule 17(1) empowers the government to dissolve a TVC if the TVC "persistently makes defaults in the performance of duties . . . or exceeds or abuses its powers". There are three issues with this provision:
  - The provision does not define what constitutes such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government.
  - The rule has no procedural safeguards such as an obligation to record reasons, issue of notice or pre-decisional hearing.

### Daman and Diu - the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2016

Dated 31.08.2016 published vide notification no. UD/DMN/SVA/68(Part-I)/2016/484

1. **Sub-delegating the power to fix the vending fee to multiple authorities creates confusion:** Section 8 of the Act delegates the function of fixing fees to the state government and directs it to specify the vending fee or its formula in the scheme. Through Clause 6(ii), the state government empowers the local authority to fix the vending fee. However, Clause 10 also sub-delegates this power to the TVC to fix the vending fee.
  
2. **Mutually conflicting provisions on who fixes the vending fee create ambiguity:** Clause 6(ii) empowers the local authority to fix the vending fee but Clause 10 delegates this power to the TVC to fix the vending fee. Section 8 of the Act delegates this function to the state government and directs it to specify the vending fee or its formula in the scheme.

## DELHI



### Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2014

Published on 26.11.2014 vide notification no. F13(61)/UD/MB/CC/2014/712130

1. **The provision on TVC term and formation is ambiguous: Rule 15(2) states:** “The process of constituting a TVC shall be completed (i) before the expiry of its term; or (ii) before the expiry of a period of six months from the date of its dissolution.” This implies that a TVC must be formed before its term expires. Instead, the provision should imply that: new TVC must be constituted before the current one expires, or “the process of constituting a new TVC shall be completed within a period of six months prior to the expiry or within six months of the dissolution of an existing TVC.”
2. **The provision empowering the state government to remove any TVC member goes beyond the Act and the grounds of removal are vague:** Rule 16 allows the government to remove any TVC member for making defaults in performance or exceeding/ abusing powers. There are two issues:
  - Rules do not clearly define what constitutes such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government.
3. **The provision empowering the state government to dissolve TVCs is arbitrary:** Rule 8 and 9 empowers the government to dissolve a TVC if it “persistently makes defaults in performance of duties. . . or exceeds or abuses its powers”. There are three issues with this provision:
  - The provision does not define what constitutes such defaults, excesses or abuse.
  - The parent Act does not envisage

or vest such a power in the state government.

- The Rule has no procedural safeguards (such as obligation to record reasons, issuance of notice or pre-decisional hearing).

### The Government of National Capital Territory of Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019

Published on 15.04.2019 vide notification no. F.13(244)/UD/MB/SVS-18/2018/214

1. **Local Voter-ID as eligibility for vending certificates is beyond the Act:** Clause 2.1.1(b) mandates a vendor to be a registered voter of NCT of Delhi. The Act does not prescribe such requirements.
2. **The provision on the use of temporary structure is ambiguous:** Clause 2.1.5 prohibits vendors from erecting a temporary structure “of any kind”. In the following sentence, it allows “structures for weather protection including umbrellas/ frames...not permanently fastened to the ground or wall”. Such ambiguity creates opportunities for vendor harassment.
3. **The provision for charging an “additional” fee is vague:** Clause 2.1.8 empowers TVC, in consultation with the local body, to levy an “additional” vending fee. The provision does not mention the statutory source or rationale for this additional fee.
4. **The provision empowering TVC to hear criminal cases may be beyond the parent Act:** Clause 5.1.8 allows TVC to constitute a women-led committee “to hear offenses” under other laws such as the Domestic Violence Act, 2005 and the Indian Penal Code regarding women harassment. The Act does not list this as a function for TVC.
5. **The provision directing the state**

**government instead of TVC to undertake the social audit is contrary to the Act:**

Per Section 26(3) of the Act, a TVC should undertake a social audit of its activities. However, Clause 7.1.1 directs the state government to constitute a social audit unit.

6. **The provision mandating social audit every 1-2 years may be unviable:** Clause 7.1.2 prescribes carrying out a social audit every 1-2 years. Given that the frequency of a survey is three years, an annual audit may / be inefficient.

## LAKSHADWEEP



### The 'Union Territory of Lakshadweep' Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2015

Published on 28.07.2015 vide notification no. G.S.R. 587(E)31

1. **Judicial members and not the Mayor or President of the local authority should head the Appellate Committee:** Rule 9 prescribes constituting an Appellate Committee for handling the appeals from the Grievance Redressal and Dispute Resolution Committee. The Committee should be led by a judicial member instead of the Mayor/ President for two reasons:
  - The Committee is required to follow the judicial procedure for dispute resolution.
  - The Committee hears appeals against the decisions of the Grievance Redressal Committee, which has a judicial member and adjudicates disputes by following a judicial procedure
2. **The provision on the term and formation of TVC is ambiguous: Rule 15(2) states:** "The process of constituting a TVC shall be completed (i) before the expiry of its term; or (ii) before the expiry of a period of six months from the date of its dissolution." This implies that a TVC must be formed before its term expires. Instead, the provision should be rephrased to imply: constitute a new TVC before the current one expires, or "the process of constituting a new TVC shall be

completed within a period of six months prior to the expiry or within six months of the dissolution of an existing TVC."

3. **The provision empowering the local authority to remove any TVC member goes beyond the Act and the grounds of removal are vague:** Per rule 16(a), the government can remove any TVC member for making defaults in performance or exceeding or abusing powers. There are two problems with this provision:
  - Rules do not clearly define what constitutes such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government. Scheme. As of writing this report, Lakshadweep has not notified a scheme.



## PUDUCHERRY



### The Puducherry Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules

Published on 25.01.2017 notified vide no. GO Ms. No. 25/LAS/A.4.2017

1. The provision on age eligibility for issuing vending certificates is improper: Rule 3 states: “a street vendor who has completed the age of eighteen years shall alone be issued a certificate of vending under section 4”. The provision intends to imply that a vendor above 14 years of age is eligible to apply for a vending certificate. Instead it implies that a vendor above 14 years of age will certainly be issued a vending certificate.
2. The provision on the term and formation of TVC is ambiguous: Rule 15(2) states: “The process of constituting a TVC shall be completed (i) before the expiry of its term; or (ii) before the expiry of a period of six months from the date of its dissolution.” This implies that a TVC must be formed before its term expires. Instead, the provision should be rephrased to imply: constitute a new TVC before the current one expires, or “the process of constituting a new TVC shall be completed within a period of six months prior to the expiry or within six months of the dissolution of an existing TVC.”
3. The provision empowering the state government to dissolve TVCs is arbitrary: Rule 17(1) empowers the government to dissolve a TVC if it “persistently makes defaults in performance of duties. . . or exceeds or abuses its powers”. There are three issues with this provision:
  - The provision does not define what constitutes such defaults, excesses or abuse.
  - The parent Act does not envisage or vest such a power in the state government.
  - The Rule has no procedural safeguards (such as obligation to record reasons, issuance of notice or pre-decisional hearing).

**Scheme** - As of writing this report, Puducherry has not notified a scheme yet.

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