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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

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GOVERNMENT OF WEST BENGAL

Department of Urban Development & Municipal Affairs
(Municipal Affairs Branch)
Nagarayan, 6th Floor
DF-8, Sector-I, Salt Lake, Kolkata-700 064

No. 461/MA/O/C-4/1A-10/2011(Pt. II) Dated : 27th June, 2018

NOTIFICATION

In exercise of the powers conferred by section 36 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (7 of 2014) (hereinafter referred to as the said Act), the Governor is pleased hereby to make the following rules, namely:–

Chapter I

Preliminary

1. **Short title, commencement and application.**–(1) *These rules may be called the West Bengal Urban Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2018.*

   (2) It shall come into force on the date of its publication in the Official Gazette.

   (3) It extends to the areas of the local authority in West Bengal as defined in clause (C) of sub-section (1) of section 2 of the Act.

2. **Definitions.**– (1) In these rules, unless the context otherwise requires.–

   (1) "Act" means the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (7 of 2014);

   (2) "bye-law " means the bye laws made under section 37 of the Act;

   (3) "Commissioner" means the Commissioner of the Municipal Corporations under the Howrah Municipal Corporation Act, 1980 and the West Bengal Municipal Corporation Act, 2006;

(4) *"Executive Officer" means the Executive Officer of the Local authority constituted under the West Bengal Municipal Act, 1993;*

(5) *"festive market" means a market where sellers and buyers have traditionally congregated for the sale and purchase of products or services during festive seasons as has been determined by the Local authority concerned on the recommendations of the respective Town Vending Committee;*

(6) *"Heritage Market" means a market which has completed more than fifty years in one place where sellers and buyers have traditionally congregated for the sale and purchase of products or services and has been determined as such by the respective Local authority on the recommendations of the respective Town Vending Committee;*

(7) *"holding capacity" means the maximum number of street vendors who can be accommodated in any vending zone as has been determined a by the respective Local authority on the recommendations of the respective Town Vending Committee;*

(8) *"Mobile Vendors" means street vendors who carry out vending activities in designated area by moving from one place to another place vending their goods and services;*

(9) *"Municipal Commissioner" means the Municipal Commissioner of Kolkata Municipal Corporation constituted under the Kolkata Municipal Corporation Act, 1980;*

(10) *"Municipal Corporation" means the Municipal Corporation constituted under the Howrah Municipal Corporation Act, 1980, the Kolkata Municipal Corporation Act, 1980 and the West Bengal Municipal Corporation Act, 2006;*

(11) *"Town Vending Committee" means the Town Vending Committee constituted under section 22 of the Act;*

(12) *"Local authority" means an institution of self-government constituted under article 243Q of the Constitution of India;*

(13) *"natural market" means a market where the sellers and buyers traditionally congregate for the sale and purchase of products or services and has been determined as such by the Local authority on the recommendation of the respective Town Vending Committee;*

(14) *"night bazaar" means a bazaar where the sellers and buyers traditionally congregate for the sale and purchase of products or services after evening, and has been determined as such by the Local authority on the recommendation of the respective Town Vending Committee;*

(15) *"notification" means a notification published in the Official Gazette and the term "notify" shall be construed accordingly;*

(16) *"No-vending zone" means an area or a place or a location designated as such by the Municipality on the recommendations of the respective Town Vending Committee, for no use by street vendors for street vending and includes certain areas of the public places, bus stop, gates of offices and hospitals, public buildings, narrow footpath, narrow street or lane, congregation or worship area, for public or any such place considered not suitable for vending activities;*

(17) *"planning authority" means a Development Authority constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 having jurisdiction over the area;*

(18) *"public purpose" includes, in the context of the Act, –*

(i) *widening of roads, streets, lanes;*

(ii) *shifting the alignment of roads, streets, lanes;*

(iii) *erecting flyovers with or without clover leaves and slip down roads;*

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(iv) erecting underpasses;

(v) development of land owned by public authorities for some public projects;

(vi) laying of water, storm water or sewer lines;

(vii) erecting intermediate pumping stations for the services;

(viii) any project related with public transport like BRTS, Metro, etc.;

(ix) erection of Economically Weaker Section (EWS) Housing;

(x) creation of Parks, Gardens and Recreational Area;

(xi) conservation of any eco system resource in that area; and

(xii) any other developmental work taken up by the Local authority, the beneficiary of which will be the community at large;

(19) "Scheme" means the Scheme framed under Section 38 of the Act;

(20) "seasonal market" means a market where the sellers and buyers have traditionally congregated for the sale and purchase of products or services during specific seasons and has been determined as such by the Local authority on the recommendation of the respective Town Vending Committee;

(21) "section" means a section of the Act;

(22) "State Government" means the Government of West Bengal in the Department of Urban Development & Municipal Affairs;

(23) "stationary vendors" means street vendors who carry out vending activities on regular basis at a specific location;

(24) "street vendor" means a person engaged in vending of articles, goods, wares, food items or merchandise or everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place und includes hawker, peddler, squatter and all other synonymous terms which may be local or region specific, and the words "street vending" with their grammatical variations and cognate expressions, shall be construed accordingly;

(25) "vending zone" means an area or a place or a location designated as such by the Local authority on the recommendations of the respective Town Vending Committee, for the specific use by street vendors for street vending and includes footpath, side walk, pavement, embankment, portions of a street, waiting area for public or any such place considered suitable for vending activities and providing services to the general public;

(26) "weekly market" means a market where sellers and buyers have weekly congregated for the sale and purchase of products or services and has been determined as such by the Local authority on the recommendations of the Town Vending Committee.

(2) Words and expressions used in these rules but not otherwise defined shall have the same meaning as in the Act.

3. Minimum age of Street vendor. – Minimum age for street vendor shall be **18** years.

4. Constitution of Town Vending Committee. –(1) Each Local authority, shall constitute a Town Vending Committee

(2) Each Town Vending Committee shall subject to the provision of the Act, consist of:–

(a) The Municipal Commissioner or the Commissioner, in case of Municipal Corporations or the Chief Executive Officer or Executive Officer or an equivalent rank as the case may be, in case of Municipalities, Notified Area Authorities and Industrial Township constituted under the West Bengal Municipal Act, 1993 or any other local authority, as the case may be, who shall be the Chairperson; and

(b) Such number of members representing the Local authority, medical officer of the Local authority, the Planning Authority, traffic Police, Police, association of Street Vendors, market associations, Traders' Association, Non-Government organizations, **Public Representatives, Social Workers,** community based organization, Resident Welfare Association, Banks etc :

Provided that the number of members nominated to represent the Committee shall be maximum 12 for the Municipalities with population of less than 2 lakh, 15 with population of between 2 lakh and 5 lakh and 18 with population of more than 5 lakh and that the number of members nominated to represent the street vendors shall not be less than forty percent of the total number of members :

Provided further that one-third of the members representing the street vendors shall be from amongst the women vendors :

Provided also that reasonable representation may also be given to persons who are physically challenged.

(3) The Chairperson or the member nominated under clause (b) of sub-rule (2) shall, unless his nomination is terminated earlier by the Local authority, hold office for a term of maximum three years from the date of his nomination.

(4) In case of death, removal or resignation or otherwise of a member, the vacancy shall be filled in the manner enumerated in sub-rule (2).

5. **Temporary Association of persons with Town Vending Committee.** – (1) The Town Vending Committee may associate with itself, any person whose assistance or advice it may desire in carrying out its function.

(2) A person so associated under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the committee and shall not be a member for any other purpose.

6. **Term of Town Vending Committee.** – Term of a Town Vending Committee constituted under rule 4 of these rules, shall be three years from the date of its first meeting following constitution of the Committee.

7. **Meeting of Town Vending Committee.** – (1) The Town Vending Committee shall meet at such times and places within the jurisdiction of the Local authority in discharge of its functions as may be decided by the concerned Local authority.

(2) Venue of the meeting, other than the first meeting, shall be determined by the Chairperson of the Committee in consultation with the respective Local authority, and the venue of the first meeting shall be determined by the respective Local authority. Notice for a meeting shall be given at least before three days from the date of the meeting.

(3) Minimum two-third of the total number of members shall form quorum, and without a quorum no meeting shall be carried on, and in this case the meeting will be adjourned. When a meeting shall be adjourned, the Chairperson shall fix another date and time for holding the adjourned meeting, and in the said adjourned meeting quorum is not necessary.

(4) Minutes of the meetings shall be signed by the Chairperson and would be put up in the subsequent meeting of the Town Vending Committee for confirmation.

8. **The manner of maintaining of record.**– (1) The soft and hard copy of the records of the Town Vending Committee shall be maintained in the place to be allotted by the Local authority concern.

(2) The street/road plan with the existing site of the street vending should be a permanent record with the Town Vending Committee, keeping into consideration of the following, that:

(a) The Urban Local Bodies will prepare ward-wise list of road and will assign the serial no. of the road in each ward.

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(b) The stall nos. will be in the following manner: Ward No. / Serial No. of the Street within the ward / Stall No.

9. **Functions of the Town Vending Committee.** – The functions of the Town Vending Committee shall be **to devise a system mechanism** as follows:

(a) For identification of existing vendors, a detailed list of such vendors shall be prepared by the Town Vending Committee in consultation with the local authority concerned by way of conducting survey with assistance from local Police Authority & the Local authority to be submitted before the Local authority for consideration and acceptance.

(b) After completion of survey, for preparation of detailed list of existing venders, the Town Vending Committee, in consultation with the Local authority concerned, shall fix a cut-off date after which any intending street vendor shall have to obtain license prior to starting new business. After completion of survey the Local authority and Town Vending Committee shall ensure that no new vendor starts his business prior to obtaining license.

(c) Town Vending Committee shall prepare the list of Street Vendors within their respective jurisdiction as stated at clause (a) above and will recommend the same to the concerned Local authority, and the concerned Local authority, after receipt of the list of vendors recommended by the Town Vending Committee concerned, shall issue necessary license accordingly as per provision of extant rules and statutes.

(d) Town Vending Committee shall prepare the list of Vending Zone as well as No Vending Zone in consultation of the Local authority, taking into consideration of the provisions of clause 'e' and clause 'i' of Rule 9 within their respective jurisdiction of the concern Local authority.

(e) The list of vending zones along with their holding capacity to be prepared in consultation with the Local authority concerned, and while preparing the list of vending zones the Town Vending Committee shall consider the following:

(i) two-third portion of the width of a footpath shall be earmarked so as to ensure smooth pedestrian movement;

(ii) the movable carts may be considered to be included so that the vendors may remove the cart after completion of daily business and size of the carts to be suitable with road width;

(iii) entrance and exit of any shop or house must not be blocked;

(iv) addressing the issue of allocation and relocation of the hawkers, the aspect of marketing scope of the particular trade is required to be addressed suitably;

(v) smooth running of schools, colleges, hospitals, offices etc.

(f) the Committee shall recommend for issue, withdraw, suspension and cancellation of the license to the Local authority, which in turn will consider the same and will take action accordingly.

(g) for deciding the zoning, the Town Vending Committee shall have the base materials/data from the Local authority concerned. Town Vending Committee, if feels necessary, may approach the Local authority for modification of the regulations and the plan for identifying vending zones. After obtaining decision of the respective authority the Town Vending Committee may take appropriate decisions.

(h) on the recommendations of the Town Vending Committee, the Local authority will declare the Natural market, Weekly market, Vegetables market, Heritage market, Festive market, Seasonal market, Night bazaar with their exact location and specific period of business.

(i) while making recommendations about the vending zones the Town Vending Committee shall take into consideration the road width, traffic flow and the pedestrian movement in the area concerned.

(j) where any Street Vendor, who is registered, or his agent or servant do any breach of any of the conditions determined by the concerned Local authority for regulating Street Vending, or where the Town Vending Committee finds that such registration has been secured through misrepresentation of facts or fraud, the Committee shall cancel the registration or suspend the same for a particular period, as they think fit. Police Authority should play their role in appropriate manner for regulation of street vendors, in consultation with Local authority.

10. **Manner of furnishing of return.** – Annual report of the Town Vending Committee shall be prepared within three months after the completion of the financial year and to be submitted to the concerned Local authority and a copy of the return shall be submitted to the State Government.

11. **Manner of publishing summary of scheme.** – The Town Vending Committee shall publish the summary of the Scheme, as notified by the State Government, in order to make the street vendors aware of the Scheme, in at least three newspapers in circulation in the local areas concerned. Such publication by the Town Vending Committee shall be done within thirty days from the date of its notification by the State Government.

12. **Support staff for the Town Vending Committee.** – The Town Vending Committee shall have its office in the space allotted by the Local authority concerned. The Local authority shall provide personnel as required by the Town Vending Committee, but no permanent burden shall be created on the Town Vending Committee on account of establishment cost. The cost of establishment shall be borne by the Local authority concerned from the municipal fund.

13. **Appeals against Town Vending Committee.** – Any street vendor, who is aggrieved by any decision of the Town Vending Committee with respect to recommendation for issue of certificate of vending, or cancellation or suspension thereof, may appeal to the Mayor (in case of the Municipal Corporations) or the Chairman or any other authority equivalent to Chairman in case of Local authority (other than Municipal Corporations) within one month from the date of adoption of such decision by the Town Vending Committee. The Mayor or Chairman or any other authority equivalent to Chairman in case of Local authority, as the case may be, shall dispose of the said appeal within one month from the application date either by rejecting or accepting it with a reasoned order. Decision of the Appellate Authority on any Appeal shall be final.

14. **Responsibilities of vendors.–**

(1) Every registered vendor shall take vending activities of specified products or services particularly for specified time period as may be determined by the Local authority on the recommendations of the Town Vending Committee;

(2) Every vendor shall have the responsibility to keep his vending space clean and free of garbage taking into consideration of the public health, hygiene and sanitation of the area;

(3) Every vendor shall ensure by undertaking to the Local authority that no use of fire shall be made while vending, in case of any violations the license shall be cancelled;

(4) Any structure with tarpaulin or any other inflammable article shall not be allowed, and the other temporary structures shall be avoided as far as practicable;

(5) Entrance and exit of any shop or house must not be blocked;

(6) Every vendor shall ensure that no traffic blockage shall be occurred during vending time causing inconveniences to the general public. For this purpose, vending on the black top of the road is strictly prohibited.

15. **Miscellaneous provisions.–**

(1) The Hawker's stall to be constructed, if necessary, as per suitability of Trade. For this purpose model design with estimate will be prepared by the State Government and circulated to the Urban Local Bodies.

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(2) The Hawker's stall of specified nomenclature and size, **as may be specified by the State Government**, shall be constructed with the recommendation of the Town Vending Committee as per model approved by the Local authority.

16. Legal proceedings etc. to continue. – Any suit or other legal proceeding instituted or any action taken, which but for the making of these rules would have been instituted or taken by or against the State Government or any local authorities, may be continued or instituted by the Local authorities or the State Government, as the case may be.

17. Removal of difficulty. – If any difficulty arises in giving effect to the provisions of these rules, the State Government, as occasion may require, by order, not inconsistent with the provisions of these rules and the Act, do or cause to be done anything which may be necessary for removing the difficulty.

By order of the Governor,

SUBRATA GUPTA
Principal Secretary to the Government of West Bengal

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