



RAMIFICATIONS OF FUNDAMENTAL RIGHTS OF VENDORS VIS `A VIS STREET VENDORS ACT

*Anjali Yadav*¹

¹ Research Scholar at Faculty of Law, University of Delhi.

Abstract

The old Middle English origin word “Riht” has its first known use before 12th century, have been now attributed and forms the basic structure of all the guiding framework of most of the nations throughout the world. The Constitution of India guarantees certain inherent rights which has subjected its derivations from foreign sources prima facie, and which further has its reclining in their instrumentality. But all the nations’ rights have a common origin subjugation i.e. the natural order which exists in the universe because all things are created by nature.

The vision related to Justice and Equality given under the preamble are secured through the fundamental rights as it attempts to guarantee the street vendors, like any other persons the basic inalienable human rights and promises to protect them by the law of the country without any discrimination.

Thus, this research paper is an attempt to understand that how legitimization of the street vendors will recognize and protect the interest of the street vendors and guarantees the basic fundamental rights of them.

KEYWORDS: Street Vendors, Fundamental Rights, Legalization, Livelihood, Regulation.

I-INTRODUCTION

The notion of rights which is very fundamental in nature has been derived from the old English word '*riht*' has its first known use before 12th century² are pertinent in each and every constitution of the world because it establishes the being of the citizens and persons. India too is among the nations having a supreme guiding principle which recognizes and endeavors the fundamental rights exclusively. The makers of the Indian Constitution have made an honest effort to include various kinds of fundamental rights under Part III which are Right to Equality before Law, prohibiting any discrimination on any grounds, Right to Life and Liberty, right to carry on business etc.

Apart from the abovementioned Fundamental Rights the constitution envisages Right to Constitutional remedies³ for the enforcement of the fundamental rights conferred under Part III and empowers the Supreme Court to give effect to the provisions of the Constitution. There has been a subjective classification of two words under Part III which are 'Citizens' and 'Person' wherein few fundamentals right like right to freedom are given only to citizens while Rights like Equality and Protection of Life and Liberty are given to every person.

These fundamental rights are very intrinsic part of every person and for fewer sections of the society if they are not recognized and protected by the law their entire existence comes into question and their survival become an indentation on human dignity. The underpinnings impression of fundamental rights are abstract in nature and can only be understood through physical manifestation of some activities or some thoughts to be exercised in the society. If we talk about the exercise of right to equality its demonstration can be attributed among the different genders, different caste, and communities etc. wherein the basic idea which is highlighted is no one should be subjected to an unjust bias and behavior and deserves everything according to his mettle considering the circumstances he/she/they were subjected to.

The redressal of unbiased or unjust is the work of the legislature of a state whose sole responsibility is to make effective legal mechanism to protect these fundamental rights for the holistic development of its citizens in conformity with the guiding principles or notions which has been laid down under the Constitution of the country which is the supreme law of the land.

India is a developing economy and is inclusive to different kind of sectors which includes mixture of both formal or organized and informal or unorganized sector. Among the various kind of workforce in the informal sector, street vendors are one of the major constituents. Street vendors who are often called as Hawkers, Peddlers,

² Merriam Webster Dictionary, 1828. www.merriam-webster.com/dictionary/right

³ Article 32, Part III, the Constitution of India, 1950.

are the urban poor who form a vibrant part of the economy sells and offer their services and products to another section of urban poor as they cannot thrive for their sustenance as the middle or higher income group does. They are not just the most noticeable segments of the informal sector that is thriving in India's cities, they also subsidize immensely to the definition of every city's character⁴. Despite of the Honest Living⁵ they make, they were subjected to non-legitimization and unequivocally to unequal treatment ever since after the inception of the constitution and a remedial redressal for which has been advocated and suggested in various court's judgements.

After the prolong decadal battles for the legal right of the street vendors since Saghir Ahmad's case⁶ to the unified legal activism by various non-governmental organizations like NASVI⁷, SEWA⁸, WIEGO, the solidified movement marked its commitment with the passing of Street Vendors Act, 2014⁹ by the Indian Parliament.

The Street Vendors Act is a very prominent step taken for the guarding the fundamental rights of the street vendors as it now recognizes and gives a legalized status to them which as a result would help to safeguards their person and property from arbitrary behavior of the authorities and harassment.

This working paper would address how far the Street Vendors Act incorporates and guards the essential rights assured under the constitution and intends to defend the livelihood of street vendors and provide them with a favorable setting for resonating out their occupation through proper regulation and if needed rehabilitation. This paper would explore and describe with the help of secondary literature the prospect of the Act to redress the normative questions related to various jurisprudential and philosophical idea related to fundamental rights and would examine the shortcomings if any and would attempt to remedy it through any new innovative legal scholarship.

II-CONSTITUTIONAL OBLIGATIONS AND THE STREET VENDORS ACT, 2014.

The Constitution of India lays down different kind of obligations on the State which are justiciable and enforceable in nature. While in drafting of the Constitution a long constitutional debate was steered among the intellectual luminaries of the India to make a Constitution which is inclusive of all. There were many fundamental rights that were integrated as a guarantee of individual liberty and constitutional protection against the state under Part III of the Indian Constitution. While there are certain constitutional principles that are essential to the country's governance and are not enforceable by the tribunal, it is the state's responsibility to apply the same while making law.¹⁰ The preamble is the soul of the Constitution which act as the guiding

⁴ Street Vendors: Denied Credit, Vol. 42, Issue No. 29, Editorials, EPW, 21 Jul 2007.

⁵ "Austin, Regina, "An Honest Living": Street Vendors, Municipal Regulation and the Black Public Sphere" (1994). Faculty Scholarship".

⁶ "Saghir Ahmad v. U.P. State. And Ors. And Ors. 1 SCR 707 (1955). The Apex Court ruled that, on behalf of the public, the state is merely a trustee of government highways. The state therefore only has a duty to regulate and see that the use does not create a conflict of rights, but it cannot monopolize and ban the use for personal gain of government highways".

⁷ Nationals Association of Street Vendors of India.

⁸ Self Employed Women's Association.

⁹ The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014.

¹⁰ Article 37, Directive Principles of State Policy, Part IV, The Constitution of India, 1950.

light. The preamble encapsulates to ensure justice to its citizens which are social, economic and political and also to provide equality of status and opportunity. And these reinforcements of the preamble have been exclusively established as fundamental right under various provisions of the constitution under Article 14, 19(1)(g) and 21 which exclusively establishes the underlying principle related to equality, freedom to carry on business and right to life and liberty.

These constitutional provisions thrives to build a democratically essential welfare society and craft a social edict for the nation and unlike any other citizens of this country provides justice and protection to the underprivileged, marginalized and economically vulnerable street vendors and hawkers who always seek protection for their inalienable human rights guaranteed to them by the natural order.

Though these constitutional provisions are holistic in themselves, the constitutional makers subjected them to some “reasonable restrictions”. Very likely Article 19(1) (g) which provides for the right to freedom entails “**Protection**” to it. It provides to it citizens to carry out any occupation, trade or business or to practice any profession subjected to the interests of the general public. And this reasonable restriction must measure its reasonability to the compelling needs of the general public. The street vendors are the biggest source to satiate the compelling needs of the general public but their mode of operation without any exclusive legislation for their work have rendered them and their work illegal and thereby subjected to the administrative malfunctions, arbitrariness and harassment which in turn negated the protection which has been mandated for carrying out any trade or occupation by them as “it’s not guaranteed” as suggested by Prof K.T. Shah¹¹ while moving his amendment for Article 13 (now Article 19) in the Constituent Assembly. The Article imposes that there is no right where the business is dangerous or immoral; such a business may be absolutely prohibited or may be required to be licensed¹². Legalization of the street vending was a long-fought battle which came to an end with the passing of the Act, which in turn promises to protect their rights and activities. The Act under Chapter III establishes the Rights and obligations of the street vendors.

It thereby makes an attempt to establish the economic liberty¹³ of vendors in the society by recognizing them

¹¹ Shah was a socialist and an economist and was elected to the Constituent Assembly from Bihar. He supported the inclusion of ‘economic and social’ rights in the constitution and argued for inclusion of the word ‘secular’ in the constitution and moved amendments to this effect. But his amendments were not accepted. Subsequently the Constitution (Forty-Second Amendment) Act, 1976 inserted ‘secular’ and ‘socialist’ in the Preamble of the Constitution of India, 1950. He submitted his draft charter as part of the Union charter Committee. He becomes a member of Fundamental Rights Sub-Committee and prepared a draft listing of rights for the primary meeting of the Sub-Committee. He expressed sturdy support for Directive standards inside the Sub-Committee.

¹² Hathising Manufacturing co. v Union of India, AIR 1960 SC 923(928): (1960)3 SCR 928: ((1960) 2 LLJ 1.

¹³For well over one hundred years, the monetary global has been engaged in an extraordinary intellectual debate. On one side of this debate have been those philosophers and economists who suggest an economic machine the on private property and unfastened markets—or what one might name monetary freedom. the key substances of financial freedom are non-public preference, voluntary trade, freedom to compete in markets, and protection of individual and property. institutions and rules are regular with monetary freedom after they permit voluntary alternate and protect people and their property.

Governments can promote economic freedom via presenting a prison structure and a regulation-enforcement machine that guard the property rights of owners and enforce contracts in an evenhanded way. but monetary freedom also calls for governments to chorus from taking human being’s property and from interfering with personal choice, voluntary trade, and the freedom to enter and compete in exertions and product markets. when governments replacement taxes, authorities’ expenses, and rules for personal preference, voluntary change, and market coordination, they reduce financial freedom. restrictions that limit entry into occupations and enterprise activities also

and thereby protecting their interest subjecting them to law made by the state. Section 12 clause 1 of the Act provides the vendors to transmit the occupation of, thereby encapsulating the idea delved under Article 19(1) (g) of the constitution and preamble of the constitution subjected to terms and conditions of the certificate of vending. Beside this Section 13 of the Act provides an entitlement of new site or area in case of relocation of a street vendor who has certificate of vending.

III- PROCEDURAL JUSTICE TO THE STREET VENDORS

Article 21¹⁴ of the India Constitution provides protection to life and personal liberty¹⁵ of every person against deprivation. There are many facets to the underlying principle of right to life and it also includes Right to Livelihood and the right to live with human dignity¹⁶ within its ambit¹⁷. Thus street vendors like any other person has the right to work to earn their livelihood so that they can live with human dignity. Without any law for their regulation and livelihood protection their right to life was at the disposal of the authorities and multitude deterrents state legislation like Section 283 of the Indian Penal Code or Section 34 of the Police Act. In maximum cities road merchandising became taken into consideration as an unlawful hobby. In most cases municipal laws did no longer without delay prohibited hawking as a profession, however, they imposed restrictions on the use of city area for street merchandising. Vendors become the main victims of those laws because they may be regarded as the main obstructers and encroachers on the general public¹⁸ as viewed by Kolkata Municipal Corporation which after the execution of famous Operation Sunshine wherein around 1, 00,000 street vendors were forcibly evicted and goods worth crores of rupees were confiscated or destroyed, and passed an amendment in 1997 to Section 371 which prohibited the usage of pavements for peddling things. The amended was enlarged to include “any basket, receptacle or goods on pavement, street, park or garden for display or sale¹⁹” and blanketed that any contravention or abetting of the equal by a seller is a cognizable and Non-bailable offence that shall be punished with rigorous imprisonment for a time period extending up to three months or fined Rs 250.

There are also municipal of the other states like Section 295(2) of the U.P. Corporation Act, 1959, Section 322 (b) and (c) of M.P. Municipal Corporation Act, 1956, Section 246, 308 and 310 of the Bihar Municipal Act, 2007 and under Section 34 Bihar Police Act etc. which mostly and largely consider street vending and hawking as an obstruction, inconvenience and annoyance to the public. The emancipating of idea related to public convenience is very public trust doctrine and it is the duty of the state to do the same but at the same time what is required is

lessen monetary freedom”. Robert A. Lawson, “Economic Freedom”, the Library of Economics and Liberty. Available at <https://www.econlib.org/library/Enc/EconomicFreedom.html>

¹⁴ The Constitution of India, 1950.

¹⁵ According to A Dicey, “personal liberty, as understood in English law, means in substance a person's right not to be subjected to imprisonment, arrest, or other physical coercion in any manner that does not admit of legal justification”. (A.V. Dicey, Law of Constitution, 10th ed., (1962), pp.207—8.) And to Blackstone” personal liberty” consists inside the strength of locomotion, of converting situation or shifting one ‘s man or woman to in anyway area one's personal inclination may additionally direct, without imprisonment or restraint unless with the aid of “due method of law”, (Blackstone, Commentaries on the Laws of England, Vol.1 (8th ed.) p.134.)

¹⁶ Francis Coralie Mullin v. Administrator, Union Territory of Delhi, AIR 1981 SC 746:1981 Cri LJ 306.

¹⁷ Narendra Kumar v State of Haryana, JT(1994) 2SC94:

¹⁸ Dr. Urmila Bagga, “Urban Informal Sector and Street Vendors”, Training Module, RCUES.

¹⁹ Section 371 sub section 1.

some thought into the application of ununiformed laws running throughout the country which is more inclined towards legislative discretion regarding a particular section which is marginalized and thereby rendering the power of regulation in the hands of authorities without any accountability or considering the notion of livelihood or dignity of the vendors on which their life depends.

The dispute related to procedural arbitrariness of different municipal laws wherein forceful ejection of the street sellers and confiscation of possessions on which their livelihood depended has been specifically dealt under the Act. Section 18 clause 3 of the Act provides that no street vendor who has certificate of vending can be evicted or relocated from the place by the local authority unless he has been given thirty days' notice and after the said period, from such place, physically, only in such way as has been stated under the scheme. The Act under clause five of the section 18 lays down that, in case an avenue seller fails to relocate or vacate the region special within the certificates, he will be at risk of penalty which can be up to rs.250 for every day of default, as decided by the local authority but ought to now not be greater than cost of seized goods.

Section 19 lays down condition under which seizure of good shall be done. It enumerates that wherein any dealer fails to vacate or relocate from the place as itemized in the certificate, after the expiration of given period, the local authority if deems necessary, may additionally seize the goods, further to an eviction being made underneath Section 18. Provided where seizure of good is carried out, the person authorized in this behalf will prepare a list of goods seized and a duly signed copy of the same would be issued to the vendors. Where the goods are perishable in nature, they shall be released on the same day by the local authority on which claim is made and in case of non-perishable goods, within two working days from which the claim has been made, after the payment of such fees, as has been specified in the scheme.

The street vendors Act also redresses the above issue of harassment and non-uniformity of laws under Section 27 Chapter VIII. The Act also addresses the point of contravention of the legislation by the vendors and the stipulated penalty for the same which would be monetary in nature and up to a limit of Rs.2000. The Act also has an overriding effect stipulated under section 33.

IV. AFFIRMATIVE ACTIONS²⁰ TO PROVIDE REPRESENTATION TO STREET VENDORS

The idea of affirmative action commenced as a government treatment to the outcomes of long-standing discrimination towards minority organizations, women's and many others and has consisted of rules, packages, and methods that give alternatives to minorities in activity hiring, admission to establishments of higher education, the awarding of government contracts, and other social blessings. The typical criteria for affirmative motion are race,

²⁰ Affirmative motion is a coverage initiative in which someone's nationality, sex, faith, and caste are taken under consideration by means of an organization or a government agency to extend employment or training possibilities. By means of projects like those, the authorities plan to boom opportunities provided to underprivileged citizens. it can additionally be looked at as casting off or bringing down decimations in opposition to a selected set or institution of people. Affirmative movement guidelines are aimed toward increasing possibilities for the ones agencies of humans that have been neglected with the aid of the society. Available at <https://economictimes.indiatimes.com/definition/affirmative-action> .

disability, gender, ethnic origin, and age. These measure or actions are remedy to provide social and political justice to the disadvantaged sections of the society to have a representation of themselves among all. The Indian government's technique towards these concerns has been shaped with the aid of key provisions in the United States of America's constitution, followed in 1950. those are the principle of 'non-discrimination and same opportunity', and the empowerment of the country to take steps to make certain non-discrimination and equal opportunity in practice.²¹

The Indian authorities have a policy of compulsory compensatory discrimination which accommodates diverse preferential schemes. The policy initiative most normally used by them to offset the inequalities of society is coverage of reservations.²² Article 14 of the Indian Constitution envisages the crux of equality and this equality as proclaimed in the preamble is of status and opportunity. In Indian anthropology an opportunity to develop has been always based on the status of the being in the society and these status were mostly based on caste, class, gender, race etc. which ousted the marginalized and vulnerable or socially low classes subjected to various kind of disability, liability, restriction etc. The drafters of the constitution were well versed with the situation of the people in the country and provisioned for the concept of equality without any discrimination and entrusted prerogative on the state to make distinct establishment for the progression of the socially and educationally backward classes.²³

With passage of time there was a realization among the nation for the empowerment of women and to provide them affirmatively an exclusive chance to make a standing for herself in the society. Therefore through 93rd Constitutional Amendment Act of 2005, Article 15(3) was added into the constitution.²⁴ Capturing the underlined essence of the constitutional provision the Street Vendors Act also tries to affirm the inclusiveness of the more marginalized vendors. Chapter II which deals with "Regulation of Street Vending" under Section 7 and enlists the conditions for dispensing vending certificate. It provides that the standards should be according to scheme framed by the appropriate government mentioned under section 2(1) but preference must to be given to SC's, the ST's, OBC's, women, PWDs and, minorities or such other groups as may be detailed in the scheme. The Act also highlights about the political representation of the street vendors under Section 22 (2)(d) and lays down that the number of elected members shall not exceed 40%

Emphasizing the principle laid down under Article 15(3) and 15 (4) wherein state can make special provision for women and children, and socially and educationally backward class, the Act under the same section provides for the 1/3rd representation of women among the number of members representing the street vendors and also of the due representation shall be given to the vendors belonging to backward, minority and disabled communities..

²¹ <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/4080.pdf>

²² Available at http://shodhganga.inflibnet.ac.in/bitstream/10603/175923/8/08_chapter_1.pdf

²³ Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. Article 15(4), The Constitution of India, 1950.

²⁴ Nothing in this article shall prevent the State from making any special provision for women and children.

V- ALIGNMENT OF IDEA OF NATURAL JUSTICE UNDER THE STREET VENDORS ACT

The idea of natural justice is an integral part of administrative discretion and control. Though the doctrine of natural justice has not been specifically mentioned under the Indian Constitution, but its essence is incorporated under the preamble where justice has been elaborate as social and economic, is founded on the impression of natural justice.

The basic pillars of the natural justice mainly focus on two principles of “Nemo judex in causa sua²⁵” and “Audi alteram Partem²⁶”

The street vendor Act has also tried to be inclusive of philosophies of natural justice as it forms t premises for execution of human rights/natural rights or the fundamental rights in a procedural manner as protected under the realm of constitution.

Chapter II of the Act deals with regulation of the street vending. Section 3 of the Act offers for the documentation of the current sellers for the surveys to be carried out by the Town Vending Committee and their adjustment to be made according to 2 ½ % of the populace of the respective ward etc. Section 4 of the Act laid down provision for the issuance of the vending certificate. The section under sub clause 3 provides that where the number of persons seeking to vend is more than holding capacity of the zone, to ensure parity and fairness, the TVC would carry out lots allotting vending certificate and the remaining persons to be in the adjoining vending zone.

Apart from this where the TVC is satisfied that any vendor commits breach of the conditions of the vending or has obtained the certificate through fraud or misrepresentation, the TVC may suspend or cancel the vending certificate of the vendor, ensuring, hearing opportunity to be given to the vendor before any finality of decision.²⁷ Section 11 also reiterates the principle of Audi alteram partem. It provides that if any vendor is not satisfied with the decision given under section 10, they may, as an appellant can plead before local authority which in turn would provide a hearing opportunity.

Ensuring the idea of non- biasness in the dispute resolution, the Act mentions the concept of ‘Dispute Resolution Mechanism’ under Chapter V section 20. It provides that to dispose the application received from the vendors the Appropriate Government would constitute a committee consisting of civil judge or a judicial Magistrate and two other professional having experience in resolution of such matters. Apart from this, to justify the principle of Nemo judex in causa sua, the Act provides that no member of the committee can be employee of Appropriate Govt. or Local Authority.

²⁵ one cannot be a judge in his own cause also known as the rule against bias.

²⁶ Hear the other side/party or an opportunity for fair hearing must be given before passing any order.

²⁷ Section 10,

VI- CO-RELATIVE DUTY OF THE STATE AND STREET VENDORS

The Directive Principles of the state policy are accorded as the novel feature and conscience of the constitution by Dr. B. R. Ambedkar and Granville Austin. It comprises socialistic, Gandhian as well as Liberal Intellectual principles for the welfare of the state. DPSP²⁸ can be said to be those fundamental rights which are not enforceable in nature. These are positive in nature and are considered to be rights which an individual cannot get for themselves and thereby requires the state to take action in order and implicate economic prioritization.

The Preamble, Fundamental Rights and Directive principles are considered as the soul of the constitution and are very intrinsically associated with each other. All of these aim for a democratic socialistic state and to achieve socio-economic justice with political justice.

Article 37 states that DPSP are essential in the supremacy of the state and it is the responsibility of the state to apply these while making guidelines, although they are not enforceable by any court in the country but still very fundamental in the governing of the state. These principles endeavor to encourage well-being of the people by protecting the social command and most certainly endeavor to eliminate the inequalities in status, facilities and opportunities. Further it also enlists certain principles of policy which the state should particularly direct as provided under Article 39(a) to (f) related to equal pay, health of the workers, equal distribution of material resources, etc.

There are various duties which under the following Articles which the state envisages to attempt. And state²⁹ under DPSP also has the same meaning given under Article 12 of the Indian Constitution unless otherwise required. It means that it imposes a mandatory duty on the Government, Parliament, and State Legislature as well as on the local authorities and any other authorities within the territory or under the aegis of Indian Government to make such laws which consist of the abovementioned principles crafted under DPSP. And thus the street vendors were also subjected to these positive prerogatives by the state. But the inefficiency of the state to make a policy or making policies without considering these guiding principles subjected the vendors to mistreatment and persecution. In a study conducted by ILO in collaboration with SNTD college of women in Mumbai on street vendors where it was found that most of the vendors suffered from disease related to stress like hypertension, migraine etc. because of insecurity at workplace which in turn is a grave failure on the part of the state. The state being not able to secure and provide just and humane work conditions³⁰ and securing right to work³¹ has forced them by economic necessity to enter into an avocation unsuited to their age or strength and health especially to women and children vendors, who, subjected to the limits of state's economic capacity and development which

²⁸ Directive Principles of State Policy, Part IV, The Constitution of India, 1950.

²⁹ Article 36, DPSP, Part IV, The Constitution of India, 1950.

³⁰ Provision for just and humane conditions of work and maternity relief The State shall make provision for securing just and humane conditions of work and for maternity relief. Article 42, The Constitution of India, 1950.

³¹ Right to work, to education and to public assistance in certain cases The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 41, The Constitution of India, 1950.

seems to have advanced over the period of time, are not threatened against exploitation and are bare to ethical and substantial neglect without being given an opportunity to progress themselves in a suitable means and in settings of choice and self-esteem as enshrined under DPSP. Every day we can see the infiltration of these principles illustrated in the constitution at the traffic signals where a child who don't even understand the concept of freedom and why do we celebrate Independence Day sells Indian Flag or one who does not have basic alphabetical knowledge offer to sell books written by many intellectual luminaries.

An effort has been made to rectify the unjust by providing social security to the vendors under the street vendors Act. The Act offers for promotional measures like social security schemes, credit and insurance and other welfare schemes under Section 31.

The Constitution of India not only envisages the idea of right but also pointed out the corresponding duties³² of the Indian citizens. Article 51 A clause (i) carves the duty to safeguard public property on citizens and the same has been interpreted and manifested under the street vendors act. Chapter III of the Act which deals with rights and obligations of the Street Vendors. The Act under section 14-17 classifies the duties of the street vendors and proposes that street vendors should occupy the space on time sharing basis, maintain public hygiene and cleanliness in vending zones, refrain from any destruction, and payment to be made for the facilities provided for the maintenance of civic amenities by local authorities.

VII- CONCLUSION

The ideas of fundamental rights are not only constitutional in nature, rather these are the universal natural right imbibed under each 'being' whether recognized or not. No one is supposed to be suppressed or maligned or to suffer because they do not have an exclusive status under any legislative framework. The essence of their existence is guaranteed by the universal law of the nature which acts as milestone for all the guiding framework of principles throughout the world for all nations, devoid of the fact whether they have been absolutely established or not. The Constitution of India under various provisions, protects these fundamental rights subjecting them to some reasonable restrictions. These restrictions also have their vital role to play because these restrictions help in execution of others fundamental rights. Through the instrument of reasonable restrictions, the constitution establishes that none of these rights are absolute in nature and can be curtailed or regulated to an extent which the Parliament or the State Legislature deems liable admitting the fact that these restriction should not be arbitrary in nature to the enjoyment of person in right and must be required in the interest of the public. Reasonability implies an intellectual caution and consideration which is a choice made as our reason dictates.

Since Early 60's the concerns for the recognition of the fundamental rights of the street vendors were raised, wherein many times the interpreters of the Constitution often recognized their right to life and livelihood which depended on their freedom to carry trade, promised to be protected under the Constitution subjected to proper

regulation as it is the exclusive duty of the legislatures to do so. But the concerns rested with the enactment of the Street Vendors Act.

The Act theaters very imperative role in legalization and recognition of street vendors, ensuring their livelihood protection. Through the Act a laudable effort has been made and substantial promises has been made, even though the Act fails to fulfill expectations on several points. The Act has provided a watertight framework for the states or the concerned appropriate government to act upon in framing schemes and rules within a timely framework but lacks penalty for the non-compliance of provision by the authority and therefore giving an opportunity without making them accountable for it.

Besides this the Act imparts most of the main provisions through delegated legislation thereby defeating and weakening the Central Legislation. Besides this the Act also requires a disclosure from the vendor that he do not have other source of living to be entitled for carrying out street trade but does not provide the methods under which the same can be proved. There are many other gaps which arise questions on the feasibility of the Act like are those eviction invalid, if no notice has been served? How these eviction could be enforced?

The Act provide for imposition of penalty on sellers for pandering in any activity which contravenes the provision of the Act, but no such effort has been made for the officials of municipality or police officers exercising any kind of extortion, eviction and harassment. No liability of government agencies for not implementing the Act has been established. The Act has made a headway start for protecting the street vending and thus must be carried out effortlessly, honestly by the authorities to fulfill the aims and objectives laid down under the Act.

BIBLIOGRAPHY

Books:

Bhowmik, Sharit K, Saha, Debdulal. *Financial Inclusion of the Marginalised: Street Vendors in the Urban Economy*. New Delhi, India: Springer, India, Private Ltd, 2013.

Bhowmik, Sharit K. *Street Vendors in the Global Urban Economy*. New Delhi: Routledge, 2010.

Calresu Melissa, Heuvel Danielle. *Food Hawkers: Selling in the Streets from Antiquity to the Present*. New York: Routledge, 2016

Saha, Debdulal. *Informal Markets, Livelihood and Politics: Street vendors in urban India*. India: Routledge India, 2016.

Acts:

The Bihar Municipal Act, 2007

The Bihar Police Act, 2007.

The Constitution of India, 1950.

The Kolkata Municipal Corporation (Amendment) Act, 1997

The M.P. Municipal Corporation Act, 1956.

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

The U.P. Corporation Act, 1959.

Encyclopedia and Dictionary:

“Business” *Oxford Dictionaries*

“Formal Sector” *Business Dictionary*

“Right” *Merriam-Webster Dictionaries, 1828*

“Street Vendor” *Cambridge Dictionary*

Bennett Sarah, Hine Lorelei, Mazerolle Lorraine. “Procedural Justice” *Oxford Bibliographies*, 2018.

McKenna Anna. “Affirmative Action”. *Encyclopedia Britannica*, 2017.

Journals, Magazines and Newspaper Articles

Austin, Regina, "“An Honest Living”: Street Vendors, Municipal Regulation and the Black Public Sphere" (1994). *Faculty Scholarship. Paper 817*. https://scholarship.law.upenn.edu/faculty_scholarship/817/ (accessed on March 3rd, 2019).

Dr. Urmila Bagga, “Urban Informal Sector and Street Vendors”, Training Module, *RCUES*
<http://www.wiego.org/sites/default/files/resources/files/Street%20Vendors%E2%80%99%20Laws%20and%20Legal%20Issues%20in%20India.pdf>

<https://www.epw.in/journal/2007/29/editorials/street-vendors-denied-credit.html> (accessed on March 3rd, 2019)

Robert A. Lawson, “Economic Freedom”, *the Library of Economics and Liberty*. Available at <https://www.econlib.org/library/Enc/EconomicFreedom.html>

SEWA. 2014. Street Vendors’ Laws and Legal Issues in India. WIEGO Law and Informality Resources. Cambridge, MA, USA: WIEGO

Sharit K Bhowmik, “Legal Protection for the street vendors” vol xlv no 51, *EPW*, December 18, 2010.

Street Vendors: Denied Credit, Vol. 42, Issue No. 29, Editorials, *Economic and Political Weekly*, 21 Jul, 2007.

Websites and Webpages

Economy – Its Meaning and Types; *National Institute of Open Learning*, India.

http://shodhganga.inflibnet.ac.in/bitstream/10603/175923/8/08_chapter_1.pdf

http://shodhganga.inflibnet.ac.in/bitstream/10603/66615/10/10_chapter%203.pdf .

<https://cadindia.clpr.org.in/> (accessed on March 4th, 2019).

<https://indiankanoon.org/doc/1107530/>

<https://nios.ac.in/media/documents/SecEcoCour/English/Chapter-4.pdf> (accessed on March 2nd, 2019)

<https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/4080.pdf>

