

(A) SCHEME FOR STREET VENDORS N.D.M.C. AREA on direction of Hon'ble Supreme Court of India.

ITEM NO. 1 (J-1)

1. Name of the subject / project :

SCHEME FOR STREET VENDORS IN N.D.M.C. AREA

2. Name of the department / departments concerned :

Enforcement Department.

3. Brief history of the subject / project :

In 1989, on the directions of the Supreme Court, the NDMC framed a **scheme** for allotment of space in the NDMC area.

The Supreme Court of India in the case titled "*Sudhir Madan v/s M.C.D. & Ors.*" in its order dated 3/8-03-2006 has directed that the NDMC's **Scheme** framed in 1989 may require revision in the light of changed circumstances and the "National Policy on Urban **Street Vendors**-2004".

4. Detailed proposal on the subject :

The detailed proposal is placed at **Annexure 'I'**. (See Pages 4-17)

5. Financial implications of the proposed project / subject :

As the **scheme** for **street vendors** are being formulated under the direction of Hon'ble Supreme Court of India, financial implication of the proposal is not a criterion.

6. Implementation schedule with timeliness for each stage including internal processing:

As this is a matter of policy, NDMC will abide by the directions of the Hon'ble Supreme Court for implementation.

7. Comments of the Finance Department on the subject :

Since the item is to be placed before the Council under the directions of Hon'ble Supreme Court, the matter was not placed before the Finance Deptt.

8. Comments of the Department on comments of Finance Department :

Not applicable.

9. Legal implication on the subject / project :

Since the item is to be placed before the Council under the directions of Hon'ble Supreme Court, the matter was not placed before the Law Deptt.

10. Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject :

Council's Resolution was passed in 1989.

11. Comments of the Law Department on the subject / project :

The **scheme** is drafted with the assistance of Law Department.

12. Comments of the Department on the comments of Law Department :

Not applicable.

13. Recommendations :

The **scheme** is for approval of Hon'ble Supreme Court of India.

14. Draft Resolution :

Resolved by the Council that the **scheme** be placed before the Supreme Court for approval.

COUNCIL'S DECISION

Resolved by the Council that after suitably incorporating the suggestions of the Members, the **Scheme** may be filed before the Registry of the Supreme Court before 30th of April, 2006 for the approval of the Supreme Court.

SCHEME FOR STREET VENDORS IN N.D.M.C. AREA

The Supreme Court of India in the case titled "*Sudhir Madan v/s M.C.D. & Ors.*" in its order dated 3/8-03-2006 has directed that the NDMC's **Scheme** framed in 1989 may require revision in the light of changed circumstances and the "National Policy on Urban **Street Vendors-2004**". Broadly the Hon'ble Supreme Court has directed NDMC to submit a **scheme** with such modifications as they propose to make, if any.; The comprehensive document should be placed before the Court containing the **scheme**; the manner of implementing of the **scheme** and the practical difficulties faced by the NDMC in implementing these schemes. The Court has further directed that the **scheme** need not be populist in its appeal but must be practical and consistent with the right of the citizens who have fundamental rights to these spaces and other public places provided by the State. Only if a space is available for hawkers and squatters without any difficulty or inconvenience to the citizens, the same may be allotted. Timings for hawking should also be decided. Trade to be allowed should be such that cleanliness is maintained.

1. A **Scheme** has, therefore, to be presented to the Supreme Court in accordance with the directions given by the Court, referred to above. The salient features of the directions can be summarized as under:-
 - i. The right to use the pathway, footpath etc. is that of the citizens;
 - ii. no hawker can claim a right to defeat the rights of other citizens;
 - iii. the hawkers are large in number, but the population of citizens is many times more than that of hawkers and, therefore, the fundamental rights of the citizens cannot be put in jeopardy by permitting hawkers and squatters to block roads, footpaths, public parks, etc.;
 - iv. consistent with the rights of citizens, if it is possible to provide any space to hawkers, squatters etc., that may be done consistent with the policy to be framed by the concerned Authority;
 - v. principles for deciding hawking and no hawking zone;

- vi. nature of goods that can be sold by hawkers, squatters, etc. so that cleanliness is maintained and at the same time free flow of traffic and movement of pedestrians is not obstructed;
- vii. the concept of starting hawking business early in the morning or late in the evening may have to be reconsidered in the light of recent developments in the city, particularly with the advent of Metro and progress made in widening roads for use by the ordinary citizens;
- viii. the **scheme** need not be populist in its appeal, but must be practical and consistent with the rights of citizens, who have a fundamental right to use the roads, parks and other public conveniences provided by the State.

- 2. A copy of the Order of the Hon'ble Supreme Court in *Sudhir Madan's* case is at **Annexure-II. (See pages 18 - 26)**

BACKGROUND

2. In 1989, on the directions of the Supreme Court, the NDMC framed a **scheme** for allotment of space in the NDMC area for squatters who were to be given tehbazari permission. The Supreme Court issued detailed guidelines for the identification of the persons eligible for squatting and identification of sites for squatting. The Court set up a Committee known as 'Thareja Committee' for identification of eligible persons and identification of sites for squatting. This Committee, after detailed scrutiny of the applications, identified 760 persons as eligible for the benefit of the **scheme**. These identified persons were out of those who are continuously squatting in NDMC area from a period prior to 01.01.1988. The Committee also identified date of seniority of each squatter and identified the trade and space to be allotted. The Supreme Court after accepting the 'Thareja Committee Report' set up another Committee for allotment of sites in the zone of squatting on the basis of three options given by them for the sites of squatting. This Allotment Committee identified about 725 persons for allotment of spaces on the identified sites on the basis of the three options given by the persons found eligible by 'Thareja Committee'. This report was accepted by the Supreme Court in September, 1999.

2.1 After acceptance of the reports by the Supreme Court, sites had to be changed due to security reasons. Reserve Bank of India authorities approached Supreme Court and requested that for security reasons, squatting should not be allowed near Reserve Bank Building. Squatters were shifted from the Central

Secretariat complex and also from the sites required for flyovers or by the Delhi Metro Rail Corporation. Squatters were also shifted from Safdarjung Hospital sites under the directions of the High Court of Delhi.

2.2 Regulation of Squatting and hawking in NDMC area is an obligatory function. Permission for hawking and squatting has to be as per the provisions of Section 330 and 225 of NDMC Act, 1994. Section 330 provides for "Licenses for hawking articles etc., and reads as under:-

"No person shall, without or otherwise than in conformity with the terms of a licence granted by the Chairperson in this behalf:-

- i. *hawk or expose for sale in any place any article whatsoever whether it be for human consumption or not;*
- ii. *use in any place his skill in any handicraft or for rendering services to and for the convenience of the public for the purposes of gain or making a living."*

2.2.1 Squatting is permitted U/S 225 of NDMC Act. Under this provision, the Chairman can give a permission for squatting on payment of such fee in each case as he thinks fit.

2.3 A person who does not have a permission U/S 225 of the Act or a hawking licence U/S 330 of the Act, is an unauthorized squatter or unauthorized hawker and liable to removal from public roads, streets, footpaths, parks etc. under Section 226 of the Act, Chairperson may without notice cause removal of articles deposited in Public Streets etc. and Section 369 (2) of the Act, provides for punishment for contravention of provisions of Section 225 (1) of the Act.

4. **Authorized squatters:-**

Persons having permissions under Section 225 of the New Delhi Municipal Council Act, 1994 from the Chairperson are authorized squatters. These are the persons who have permission to squat in built up structures like kiosks, stalls, tharas and open spaces allotted by the NDMC and those identified by 'Thareja Committee'.

2.5 **Authorized Hawkers**

Chairperson is issuing licenses U/S 330 of the Act for hawking in NDMC area. These licenses are issued on year-to-year basis. There have been claims by the hawkers that they should also be given fixed sites as some of them are too old

and infirm and hence unable to hawk from place to place. Similar requests have also come from women and widows for permission to squat at fixed sites although they hold hawking licenses.

2.6 **Unauthorized squatters and hawkers**

These are persons who have not been given permission under Section 225 of the NDMC Act, 1994 for squatting and persons who do not have a hawking licence U/S 330 of the NDMC Act, 1994 but are squatting or hawking in the NDMC area without a permission or a licence. The NDMC has also “tolerated” migrants from Jammu & Kashmir. These persons do not have either a permission under Section 225 or a licence under Section 330 of the NDMC Act but are continuing to operate in the NDMC area without a permission or licence, as aforesaid. Action U/S 226 and Section 369 (2) can be initiated against them.

2.7 Thus there are three categories of persons operating in NDMC area:-

- **Category-1**:- Those who were given permissions by the NDMC of its own or on the basis of Thareja Committee recommendation. These are deemed permission U/S 225 of the NDMC Act, 1994.
- **Category-2**:- Hawkers who have been given licence under Section 330 of the NDMC Act, 1994.
- **Category-3**:- Persons who don't have permission under Section 225 or licence under Section 330 but are continuing unauthorisedly in NDMC including categories such as J&K Migrants whose claims were not admitted but who have been “tolerated” in the NDMC area.

National Policy for Urban Street Vendors, 2004

3. In the year 2004, Ministry of Urban Affairs and Urban Poverty Alleviation, Govt. of India announced “National Policy for Urban **Street Vendors**”. This policy has defined a **Street** Vendor. The objective of the policy is to provide and promote a supportive environment for earning livelihoods to the **Street Vendors**, as well as ensure absence of congestion and maintenance of hygiene in public spaces and streets.

3.1 The policy paper provide for setting up of a “Vending Committee” which may consist of the representatives of the following:-

- Municipal authority
- Traffic and Local Police

- Land owning authority
- Associations (markets, traders, residents welfare)
- Association of **Street Vendors** (static and mobile).

2. Functions of the Vending Committee shall include:-

- i. Demarcation of vending and non-vending areas;
- ii. Provision and identification of space for squatting and areas for hawking. Provision for space may include temporary designations as Vendor markets (e.g. as weekly markets) whose use at other time may be different (e.g. Public Parks, parking lots) etc.;
- iii. Timing restrictions on the urban vending. It should correspond to needs of ensuring non-congestion of public spaces;
- iv. Public hygiene and cleanliness;
- v. Ensure continuation and upgradation of weekly markets;
- vi. Quantitative norms i.e. where to allow, how many squatters or persons;
- vii. Qualitative guidelines:- This has to include
 - provision for solid waste disposals,
 - public toilets to maintain cleanliness;
 - Aesthetic design of mobile stalls/push carts;
 - Provision for electricity;
 - Provision for protective cover to protect their wares as well as themselves from heat, rain, dust etc.;
- viii. Regulatory Process;
 - ix. Registration system;
 - x. Corrective mechanism against defiance by **vendors**;
 - xi. Collection of revenues and
 - xii. Monitoring mechanism.

3.3 On quantitative norms, the policy paper has referred to Master Plan for Delhi, 2001 (MPD-2001), which proposes to incorporate the informal sector in trade in the planned development of various zones. The norms are as under:-

Retail Trade Norms

Central Business District - 3-3 Units per 10 formal shops

Sub-CBD, District Centre, Community - As specified in the norms

Centre, Convenience Shopping Centre separately.

Govt. & Commercial Offices - 5-6 Units per 1,000

employees.

Wholesale Trade & Freight Complexes - 3-4 Units per 10 shops

Hospital - 3-4 Units per 100 beds

Bus Terminal - 1 Unit per 2 bus-bays

Schools

Primary - 3-4 Units

Secondary/Senior/Integrated - 5-6 Units

Parks

Regional/District Parks - 8-10 Units at each major entry

Neighbourhood parks - 2-3 Units

Residential - 1 Unit/1000 population

Industrial - 5-6 Units per 1000 employees

Railway

Terminus -

To be based on surveys at the time of preparation of the Project.

NEW SCHEME FOR N.D.M.C.- 2006

4. A Vending **Scheme** incorporating the National Policy for Urban **Street Vendors** 2004 is, therefore, proposed to be implemented in NDMC area.

1. **Constitution of Vending Committee**:- The Vending Committee has to be set up. The Committee shall consist of the following representatives:-

- A representative of the N.D.M.C.
- A representative of the Traffic and Local Police.
- A representative of the Land Owning Agency i.e. L&DO.
- A representative of the Market Association when the space being selected at the market and representatives of Residents Welfare Association when the selection is for the residential colonies.
- A representative from Association of **Street Vendors** and if no such association has been formed, a representative of squatters of each of the markets for which the allotment of sites is being considered.

The Committee shall be presided over by the representative of the NDMC to be appointed by the Chairperson with delegated powers under Section 400 of the Act.

Vending and no-vending areas:-

Non-vending areas:-

4.2 In view of the fact that NDMC is a security sensitive area, no squatting shall be allowed on the roads and the areas specified hereunder:-

- The areas covered by Lutyens' Bungalow Zone (LBZ) as specified in the Zonal Development Plan (Zone-D)
- Areas in Rajiv Chowk and Indira Chowk.
- Areas around Supreme Court, Chankyapuri Foreign Mission Area.
- Areas near the Delhi Metro Rail Corporation Stations.
- However, in these areas, wherever the built up units like kiosks, stalls etc. have been constructed by NDMC, the same shall be allowed to continue. If Vending Committee feels that this area be extended, it can do so after issuing a public notice.

VENDING AREAS:-

4.2.1 Vending areas shall be:-

- Private and residential colonies other than in non-vending areas;
- Spaces near Bus Stops;
- Markets other than Rajiv Chowk and Indira Chowk
- Restricted hawking outside Schools, Hospitals, India Gate, C-Hexagon and other public places, parks.

Provision and identification of spaces for squatting and hawking & vending area:-

3. The Vending Committee shall identify sites and spaces in the vending areas specified at 4.2.1 above as per the norms laid down in Master Plan referred to in para 3.3 above. The Vending Committee shall also identify space for weekly markets. The Committee shall further estimate requirement of hawkers in Residential Colonies.

4.4 Allotment of spaces to the Authorized squatter of Category-1.

The authorized squatters with permission for open tehbazari shall be allowed spaces on the sites identified at 4.3 above.

1. If an authorized squatter is to be shifted from the existing squatting site, he shall be required to give three options of the other available sites and allotments to be made on the basis of options given by him.

HAWKING LICENCES:-

4.5 No hawking licence shall be issued in non-vending areas. Wherever applicable the Vending Committee in consultation with the Residents Welfare Associations shall decide the number of categories and type of items, which should be permitted for hawking in each of the residential colonies. The hawking licenses shall be issued to the hawkers, as aforesaid, on the suggestions of the Residents Welfare Associations and of the recommendations of the Vending Committee.

4.5.1 The timing and day of hawking shall be as per suggestions of R.W.As.

4.5.2 The Residents Welfare Associations, if they so need, may also specify the spaces for squatting in the residential colonies. These fixed sites should, as far as possible, be allocated by the Vending Committee to the women or aged persons above 60 years of age.

4.5.3 Hawking licenses shall also be given on the recommendations of the Vending Committee near public parks including India Gate, C-Hexagon, near Rail Museum and other Tourist spots.

4.5.4 Due to health and hygiene considerations, hawking licenses for Ice-cream and water trollies shall be processed by Vending Committee as per guidelines issued by Chairperson from time to time.

Registration for squatters and hawkers in Category 1 & 2.

4.6 The Vending committee shall register the **vendors** and issue Identity Cards which would contain photographs of the husband and wife, residential address, identification of space for squatting or hawking and trade. Registration charges shall be Rs.1,000/-. There shall be fresh registration every five years.

TIMINGS FOR VENDING:-

7. The timings for squatting shall be the market timings as notified under the Shops and Establishments Act from time to time. Where the squatting is otherwise than in the markets, the decision for fixing the time shall be with the Vending Committee. In case of residential colonies, it shall be in consultation with Residents' Welfare Associations.

QUALITATIVE GUIDELINES:-

8. The Vending Committee shall also put up a detailed proposal for providing disposal of solid waste, provision for electricity and providing public toilets if not already provided in the spaces to be notified for squatting etc. At present, at the squatting sites, squatting spaces are of 6' X 4' or 4' x 3', etc. It may be made uniform as 5'x5' or 4'x4' for all categories with a provision for protective covers to protect the wares as well as squatters from heat, rain, dust etc. Provision for pushcarts, mobile vans/tricycles can also be examined. No built up structures shall be permitted.

TRADE TO BE ALLOWED FOR VENDING:-

4.9 No licensable trade, particularly food items, shall be allowed. No vending for cycle, auto repair or auto parts. The trade to be allowed for vending has to be such that cleanliness and hygiene is maintained at the same time free flow of traffic and movement of pedestrian is not obstructed. The Vending Committee can remove the items, if sale is not in conformity with the permission. The Vending Committee shall be empowered to cancel the registration of squatter who does not confine to the allotment of trade for which vending has been allowed or where the squatter is engaged in licensable trade particularly eatables.

Fines against the defiance by squatters and hawkers:-

4.10 The Vending Committee shall have power to impose fines on defaulting **vendors** and in case of continuous default or defiance in following the directions from the Vending Committee or payment of fee, the Vending Committee shall have powers to cancel the registration of the vendor and remove him from the site. Action U/S 226 and 369 of the Act, can also be taken.

Transfers:-

4.11 Transfer of spaces for squatting and licenses for hawking including on legal heir basis in all categories of squatters and hawkers shall not be permitted.

4.11.1 Such space for squatting and licenses for hawking shall be offered on the basis of seniority to the allottees of open space in Category-1 and if no claimant, on the basis of lottery to squatters under category 2 and 3.

FEE:-

4.12 Fee for permission to squat U/S 225 of the Act shall be fixed by the Vending Committee. The fee may be higher for the spaces in the markets etc. and lower in the spaces, which are not in demand.

1. The licence fee U/S 330 of the Act for hawking may be Rs.100/- per month or as may be proposed by Vending Committee from time to time.
2. Encroachments on footpaths and streets shall be removed by Vending Committee and on repeated violations can confiscate the goods.

Unauthorized hawking and squatting:-

5. The Migrants from J&K and the persons who are not covered under category 1 and 2, shall register themselves with the Vending Committee. The Committee shall charge Rs.1,000/- as Registration Fee from these unauthorized squatters and hawkers who are interested for vending in NDMC area. The persons to be registered under this category other than Kashmiri Migrants shall be residents of New Delhi Parliamentary Constituency only with proof of residence. This registration shall be on year-to-year basis and valid for a financial year.

5.1 If spaces are available on the basis of the MPD-2001 norms after allotments to Cat. 1, as referred to above in Para 4.4, these spaces shall be allotted on the basis of lottery, out of the persons registered under category 2 or 3. They shall be registered under Para 4.6 and pay fee as per para 4.12 above.

5.2 The Vending Committee shall identify spaces for Weekly Markets in the markets or in the parking lots and permit squatting by the persons registered under category 3, on 'first come first serve basis' or on the basis of lottery, as may be convenient to the Vending Committee. No annual squatting or hawking fee shall be charged from the persons referred under this **scheme**. No right shall accrue to any individual who is allowed under this category to squat, vend or hawk beyond the stipulated date and time.

De-congestion of streets and footpaths:-

6. The taxi operators in NDMC area are mostly operating as Travel Agents and the streets and footpaths are crowded by private cars illegally operating as commercial taxis as well as luxury taxis with DLY and DLN registration numbers, not only of Delhi but of Haryana and Rajasthan also. The built up units of taxi booths are mostly used as residences of the drivers and not for the purpose for which the booths were initially constructed as telephone booths. Taxi Stands for DLT (Black and Yellow) CNG taxis alone shall be permitted in the NDMC area without any built up structure. These shall be restricted to taxi bays and not exceed five in numbers. This will comply with the directions of the Supreme Court that roads and footpaths are for the citizens and not to be crowded by squatters or hawkers or other similar persons.

HARDSHIP CASES

7. Vending Committee shall examine cases of hardship, physically handicapped, women and aged out of category- 2 and 3 and can consider for allotment under this category upto a maximum of 10% of the spaces available for squatting and hawking as identified at 4.3 above.

Removal of difficulties:-

8. In case of any difficulty in implementation of this **scheme**, clarification given by the Chairperson shall be final.

Schedule for implementing the **scheme:-**

9. After the **scheme** is approved by the Supreme Court, the Vending Committee shall complete the exercise of allotment of spaces to Category1 and issue hawking licenses to Category 2, within three months from the date of approval of the **scheme** by the Supreme Court. Cases of category 3 shall be taken up thereafter and shall be completed within six months from the date of approval of **scheme** by Supreme Court.