

A.K.JAYASANKARAN NAMBIAR, J.

**W.P.(C).NOS.21401, 16559, 19352, 23828, 23835, 23969,
26079, 27003, 27547, 29080, 29920, 34508, 35001, 35621
OF 2019, W.P.(C).NOS.882, 4722 & 29042 OF 2020
& W.P.(C).NOS.28797 & 30916 OF 2021**

Dated this the 18th day of February, 2022

ORDER

In the order dated 28.01.2022, this Court had considered the possibility of vending activities being carried on by unauthorised persons and had observed that the salutary objective of protecting the livelihood of genuine street vendors cannot be jeopardized at the instance of those who do not qualify to be street vendors under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, Rules and Scheme.

2. With a view to ensuring that no unauthorised vending activities are carried out within the limits of the Kochi Municipal Corporation and for taking immediate action against the said unauthorised persons, a Monitoring Committee comprising of the District Collector, Ernakulam, the City Police Commissioner, Kochi, the Amicus Curiae, the Mayor of the Kochi Municipal Corporation and the CEO of CSML was directed to be constituted to monitor street vending activities.

3. It is now brought to my notice by the Amicus Curiae through his report No.9 dated 15.2.2022 that the Committee above has been constituted and it convened meetings on 5.2.2022 and 11.2.2022 pursuant to which the following suggestions have been put forward:

- That pending finalisation and implementation of the Town Vending Plan and taking note of the extent of vending areas specified under the Scheme, the area of vending be limited to between 15 - 25 sq. ft. based on the nature of the vending activity pursued.
- That vending on footpaths be confined to only such areas where the width of the footpath is more than 3 metres. As the footpaths in many areas have a width of 4.4 mts., this would leave sufficient space for pedestrian movement as also for use by differently abled persons for whom facilities have been provided on the newly laid footpaths.
- That pending finalisation of the Town Vending Plan wherein the vending and non-vending zones will be clearly earmarked, vending on the footpaths be regulated by observing the protocols announced by the Government from time to time including under the Disaster Management Act.

4. The report of the Amicus Curiae also refers to the findings of a surprise inspection conducted on 12.2.2022. The following

irregularities/illegalities are pointed out:

1. Many vendors are not exhibiting the vending certificate issued to them in the vending cart.
2. Vending activities are carried on by persons other than the holder of the vending certificate or his/her family members.

5. Taking note of the above, the following directions are issued for implementation by the Monitoring Committee with immediate effect:

- (i) Vending activities shall be carried on only by the holder of certificate of vending or his/her family member.
- (ii) Certificate of Vending shall be prominently displayed on the vending cart/stall by the vendor concerned.
- (iii) Vending activities on footpaths shall be confined only to such areas where the width of footpath is more than 3 metres and after leaving sufficient space for pedestrians to walk. Facilities provided for differently abled persons shall not be hindered/obstructed in any manner.
- (iv) The vending activities shall be confined to an area of 15 - 25 sq. ft. depending on the nature of the activity. The Monitoring Committee shall provisionally fix the area based on inputs received from the Corporation and its Town Vending

Committee.

6. The learned Standing Counsel for the Corporation states that a meeting of the Town Vending Committee is scheduled on 21.02.2022. The Committee shall on that day deliberate and decide on the vending area to be fixed in respect of various categories within the range of 15 - 25 sq. ft. The Vending Committee shall also decide on the criteria for determining the eligibility of an applicant for a certificate of vending in terms of the Act. In that process, they shall be guided by the provisions of Sub Section 2(l), 5 & 6 of the Act, which read as follows:

2. Definitions:-

XXXXXXXXXXXXX XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX

(1) "street vendor" means a person engaged in vending of articles, goods, wares, food items or merchandise of 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 and 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;

5. Conditions for issue of certificate of vending.- (1)

Every street vendor shall give an undertaking to the town Vending Committee prior to the issue of a certificate of vending under section 4, that-

- (a) he shall carry on the business of street vending himself or through any of his family member;
- (b) he has no other means of livelihood;
- (c) he shall not transfer in any manner whatsoever,

including rent, the certificate of vending or the place specified therein to any other person.

(2) Where a street vendor to whom a certificate of vending is issued dies or suffers from any permanent disability or is ill, one of his family member in following order of priority, may vend in his place, till the validity of the certificate of vending-

(a) spouse of the street vendor;

(b) dependent child of the street vendor:

Provided that where a dispute arises as to who is entitled to vend in the place of the vendor, the matter shall be decided by the committee under section 20.

6. Categories of certificate of vending and issue of identity cards.- (1) the certificate of vending shall be issued under any of the following categories, namely:-

(a) a stationary vendor;

(b) a mobile vendor; or

(c) any other category as may be specified in the scheme.

(2) The certificate of vending issued for the categories specified in sub-section (1) shall be in such form, and issued in such manner, as may be specified in the scheme and specify the vending zone where the street vendor shall carry on his vending activities, the days and timings for carrying on such vending activities and the conditions and restrictions subject to which he shall carry on such vending activities.

(3) Every street vendor who has been issued certificate of vending under sub-section (1) shall be issued identity cards in such form and manner as may be specified in the scheme.

7. Taking note of Covid protocols - vending shall not be carried on in a manner that results in extending of vending spaces beyond permitted limits and vendors shall not vend in clusters.

8. The City Police Commissioner has handed over a report in a sealed cover based on this Court's direction in the order dated

28.01.2022 to enquire into existence of any illegal nexus, alliance or consortium of persons responsible for encouragement or abetment of unauthorised street vending activities within the limits of Kochi Municipal Corporation. The report suggests, *inter alia* that the following vendors who hold certificates of vending are currently carrying on vending activities in gross disregard to the conditions for vending stipulated in the certificates issued to them.

Sl. No.	LICENSEE	LICENSE NO.
1	Kaajhussian, mob: 7012690760	Lic. No.07CO330670-01587
2	Abdul Samad, Pediyekkaparamb (H), Ponnarimangalam, Mulavukadu, mob:6282454576	Lic. No.07CO330670-01190
3	P. T. Muhammed, Pediyekkal (H), Ponnarimangalam, Mulavukadu, mob:9349250639	Licence not available
4	Navas, Pulithanikkathil(H), Mulavukadu, mob:9567355254	Licence not available
5	Shanu T, S/o.Thajudeen, Pothadi (H), Mulavukadu, mob:8089443104	Lic. No.07CO330670-01580
6	Sudeer K.H., 21/899, Pallekkattuparamb (H), Thangal nagar, Palluruthy	Lic. No.07CO330670-00658
7	Shamsu, Idasherykunnel, NAD (PO), Aluva	Lic. No.07CO330620-01117
8	Jaahir Hussian, 40/2595, TD Near Temple, Kochi 35	Lic. No.07CO330620-00411
9	Manikuttan C K, Chirathara (H), Chembu (PO), Vaikom	Lic. No.07CO330620-00433
10	Najimudeen, 71/196, Bismilla Mansil, Karukappilly	Lic. No.07CO330620-00445
11	Sharafudeen, Chirayathparappil (H),	Lic. No.07CO330620-

	Vaduthala, Market Rd, Ernakulam	00470	
12	Muhammed Basheer, Nadavila, Ponoth (H), Naduvath Nagar (PO), Poochakkal, Alappuzha	Lic. 01611	No.07CO330670-
13	Suneer, S N Mansil, Punnapra, Alapuzha	Lic. 02097	No.07CO330670-
14	Vijesh A, Aalpaara (H), Uppukulam (PO), Kalanallur, Mannarkkad	Lic. 01254	No.07CO330670-
15	Muhammed Sali S K, Kaappilparamb, Choornikkara, Thayikkattukara, Aluva	Lic. 00716	No.07CO330670-
16	Kadhar Oli Haaji, Mukkungal (H), VT Rd, Pothumaanoor (PO)_	Lic. 01211	No.07CO330670-
17	Ramesh Kumar, Naduvilparamb (H), Mother Teresa Rd, South Chittor (PO)	Lic. 00776	No.07CO330670-
18	Muhammed Nissar VS, Tharivarnaa Rd, Deshabhimani, Kaloore, Ernakulam	Lic. 00702	No.07CO330670-
19	Maarimuthu K, Kalluveedu (H), Hashmi Line, Shanmughapuram, Pachalam	Lic. 01219	No.07CO330670-
20	Sakkir, 358 Tharas, GRM (PO), Kahaari, Uttarpradesh	Lic. 02437	No.07CO330670-
21	Anvardeen, 33/1039, Deen Mansil, Ponnuranni, Vennala (PO), Pin:682020	Lic. 00437	No.07CO330620-
22	Jainudeen, Near Kongini Temple, Broadway, Ernakulam	Lic. 00415	No.07CO330620-

9. Taking note of the said report, I direct the District Collector to forthwith issue notices to the aforesaid persons, asking them to produce documents relevant to identifying them as a street vendor within the meaning of the term under the Act, Rules & Scheme and other documents to show compliance with the conditions stipulated in the certificates of vending issued to them. After hearing the said persons, the District Collector shall submit a report before this Court

recording his findings in respect of each of the said persons and their vending activities. The said exercise shall be completed by the District Collector within a month and a report filed before this Court by 18.03.2022.

In view of the difficulties stated by the Monitoring Committee and with a view to ensuring a systematic implementation of the Street Vending Scheme, the Town Vending Committee of the Cochin Corporation is directed not to issue fresh certificates of vending to any person till 18.03.2022 by which time based on the directions issued above, clarity will be achieved as regards what activities qualify to be permissible street vending activities and the persons who are entitled to carry on such activities, in terms of the Act, Rules and Scheme. The Corporation shall also ensure that the Street Vending Plan for the Kochi Municipal Corporation is finalised by 18.03.2022, without fail. In view of the delay already occasioned in finalising the Plan, it is made clear that no further time will be granted to the Corporation in this regard.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE