

Municipal and Police Laws

Patna

The Patna Municipal Corporation Act of 1951 gives various definitions of public space, municipal market, municipal tax and street. Most of the provisions are applicable to hawkers and vendors.

Section 137

In the case of obstruction, nuisance or danger to the public in the use of way, river, channel or place, the magistrate reserves the right to question the person against whom the order is made.

Section 138

The magistrate can also fine a person for violating the rules of his /her license.

There is also a form to be filled up with regard to the selling of goods on municipality land and road. The name of the article to be sold, description of the place of sale, time of the sale, the validity period of the license, the description of the booth or stall etc. are some of the particulars to be filled.

Section 527

The state government does not have any right to give on lease any land earmarked by the municipality. The municipal law in Patna does not allow for the setting up of stalls, display of goods, or selling of articles by occupying public streets, without prior permission of the Chief Executive Officer. (CEO). The permission of the Chief Executive Officer has to be in the form of licenses, for a specific period of time (not exceeding one year), with a specific fee, also not providing for the construction of a permanent structure. In the case of these rules being flouted the CEO may remove the impediments without prior notice and charge rent for the use of the land.

Prior to the leasing out of sites by auction, the CEO has to publish a notice of the same at least 2 weeks in advance. The sites chosen by the CEO for the purpose of occupation have to be plotted on plans and kept in the corporation offices.

Section 542

A copy of every license granted has to be sent to the district magistrate and city superintendent of police.

Section 456

It is imperative for the Superintendent of police and his / her subordinates to cooperate with the Chief Executive Officer.

Police Act 34

The police have the authority to punish any person causing obstruction, annoyance, or inconvenience to passengers or residents. Exposing goods for sale comes within this purview. A person found guilty of these charges can be convicted and arrested without a warrant and a fine can also be imposed on him / her.

Calcutta

Under the Calcutta Municipal Corporation (CMC), the Municipal Commissioner has the authority to search and seize any basket containing goods for sale in a park, or street. Such a person can be detained and the matter can be pursued as per procedures of the law.

Soon after in the infamous Operation Sunshine, through which 100,000 hawkers were evicted overnight, the state government passed an which makes any form on encroachment on the pavements, especially street vending, a non-bailable offence and if convicted will carry a sentence of three months rigorous imprisonment and/or a fine of Rs. 250. (Bill No. 33 of 1977: The Calcutta Municipal Corporation (Second Amendment) Bill, 1977).

Bhubaneswar

According to the Orissa Municipality Act 1950 the municipality has the right to provide places for use as public markets while levying certain fees as deemed necessary for a maximum period of 3 years and subject to certain prescribed conditions. It is imperative for a person to obtain the permission of the municipality for the sale or exposition of goods, failing which the Executive Officer may expel him / her. Sec.295 (2) Levy of fee on traders who attended weekly market, is now justified though a fee must have relation to the service as rendered or the advantages conferred, such relation need be direct, mere casual relation - there is need for uniformity between the fee and the services rendered. 1993 (1) OLR (S.C.); 1993 (2) J.T. 393 Supp Sec 543

No person can open a new private market unless he / she obtains a license from the municipality to do so. The municipality also reserves the right to suspend or cancel a license if the prescribed conditions are not fulfilled. There are also rules regarding granting and renewal of licenses. (Orissa Municipality (Amendment) Act 1968).

Bangalore

In Karnataka there are specific rules controlling people's admission to parks and open spaces and also rules guiding behaviour in the vicinity of parks and open fields. (Karnataka Parks, Playfields and Open Spaces Preservation and Regulation Act, 1985). There is also a provision made regarding encroachment on highways. Any encroachment done by people involving selling of goods and vending can be removed by the police in order to maintain the uninterrupted flow of traffic. A person causing this kind of a disruption is liable to make a payment for the expenditure incurred in removing the encroachments.

Also, there are bye laws which demarcate the areas available for the sale of goods. Sale of food can only be carried on in areas belonging to the municipal council as a market by obtaining a licence. Any market without such a licence can be inspected by the municipal commissioner or any officer authorised by him at any time. It is imperative for hawkers to wear a badge conspicuously and maintain healthy sanitation standards. (Karnataka Municipalities [regulation and inspection

of private markets, slaughterhouses and other places of sale of articles intended for human food] Bye Laws, 1966)

The municipal council is obligated to maintain a separate and suitable place for vending vegetables. However there is no provision for a specific zone for hawkers and vendors. The zoning is available only for permanent structures and those who cannot afford these structures fall outside the purview of the protection of the law (the Karnataka Municipalities regulating the conditions on which permission may be given for the temporary occupation of or the erection of temporary structures on public streets or for projections over public streets. 1966)

However there appears to be one empowering provision. Although the bye laws can lead to the removal of objectionable encroachments, there is a special provision whereby the municipal council can give on lease certain streets or specific roads, for the sale of articles like vegetables, fruits, silk etc., temporarily, by levying a daily or monthly fee.

In the case of occupation of public premises, the authorised officer is required to issue a show cause notice in writing to the unauthorised occupant and give him / her a reasonable opportunity of being heard before an order of eviction is issued. (the Karnataka public premises [eviction of unauthorised occupants] act 1974)

Mumbai

The municipality law in Mumbai does not provide for the erection of any structure or stall on the streets which will obstruct the passage of the public, or impede the working of a drain or open channel. Such a structure is liable to be removed by the municipal commissioner and the person responsible for the creation of the structure is to incur the expenses of its removal. It is imperative for a person to procure a license from the municipal commissioner to be able to hawk his / her wares in any public place. Failure of compliance will lead to the removal of any product being hawked on the streets, without prior notice.

Similarly hawking of milk or any other milk product without a license is also prohibited. There is also a provision whereby the commissioner has the authority to inspect any of the goods being hawked. If they are found to be unsound in nature they can be seized and destroyed.

Ahmedabad

The municipal law in Gujarat prohibits the hawking of goods without a license. The Municipal Corporation is also empowered to remove any encroachments and obstruction made on the streets.

According to the police law any trade or occupation or keeping of any goods which causes physical discomfort to the community, has to be regulated or prohibited. It further states that a person causing an obstruction on the streets by exposing articles for sale, if convicted, is liable to be punished by the imposition of a fee. Both cities, Ahmedabad and Mumbai, have a common municipal act, namely, the Bombay Police Act 1950. This act empowers the police to arrest hawkers for obstructing free flow of traffic under sections 102 and 107. Most