

Editorial

Wednesday, January 2, 2019

What is there to be happy on New Year?

The cycle continue and once more, with the final exit of the 2018, a new year 2019 begins. Wishing and blessing mark the coming of the New Year. But what is disheartening is that the coming of new years makes no difference for the state of Manipur.

In the year 2018, players from the state brought laurels and fame of the state and the government too had taken up some developmental works. Other than this there was nothing which we had to celebrate the 2018, as almost all happenings worried the right thinking people of the state.

The series of work programme initiated by the N. Biren Singh government since it came to power showed that his intention was to take up some developmental and welfare programme of the people.

In recognition to his service for the people, N. Biren Singh has been honoured as the 3rd best Chief Minister of India besides, the prestigious "Champion of Change". But whatever took up by N. Biren Singh for the welfare of the people still need a long way to turn into reality. The good works taken up still need to reach the common people.

Development works is not only required for taking up good governance but it also need to make sure that all citizen are ensured with the fundamental rights guaranteed under the Constitution of India. The government needs to follow the constitutional provision. Regarding this, former Chief Justice of India Deepak Mishra quoted former President of US, Thomas Jefferson - "If the government fear the people then there is freedom, and if the people fear the government then there is atrocities to the people. In the word of Justice Mishra, Freedom is for all time. Freedom cannot be compromise with anything. Freedom is ensured and protected if the freedom of a citizen has not been compromise with any other things.

We cannot live without the significance of Democracy and definitely we cannot be ensuring freedom. If ones freedom has been violated without proper proceeding of the law of the Land then one might consider him half dead.

In Indian democracy, peoples are the supreme and the government is for the people. The question right now is that - Is the government fear the people or the people fear the government. The answer of this question will tell the fate of Democracy.

The uncertainty of the Manipur's Boundary, rise of unemployment which is reaching 1/3 of the total population, the problem of influx of illegal migrants from outside the state which is becoming a threat to the indigenous people, trust deficit among the people of the state - are some of the issue which question the fate of the state.

Right at the moment - the demand for the conversion of Meetei / Meitei into Scheduled Tribe, the demand for the Inner line permit system, the long struggle of the UNC to make a separate state by curving portion of the Manipur state, the Frame Work Agreement of the NSCN-IM and the demand of the Kukis for a separate state, and the impact of the Armed Forces Special Powers Act (AFSPA) 1958 make the people of this region an uncertain life.

In such a situation we the Manipuri have to ponder is that how could the people expect more with the coming of the new year.

At many states where issues of Human rights violation and other, the coming of a new year use to be received with great celebration. But as for the state of Manipur where the people have been suffering with multiple issue, a burden has been lifted to the new year 2019.

If one ponder on the certain thing happening in the state, one wander whom to wish whom with the coming of this new year. There is a skepticism on assuming that the wishes of new year will yield positive result.

Public leaders or legislators who wishes on year are abundant, but what is disheartening is that we still do not see any leader who actually want to make the people happy.

There are also many people who fight for their right, but there are not many people who judiciously use the rights. This is the reason for the many wanted incident happening day today in our society.

Need of the hour is groom a leader who can sacrifice for the cause of the people.

Manipur is a home of various ethnic communities. Since time immemorial they have been living in peaceful coordination. Sometime there were difference of opinion on certain issue which led to clash among them, but the brotherhood among the various communities has never been perished. Such incident happen in every society.

At a time when we have to find a solution for the difference, the unfortunate part is that some people are inciting hate feeling among the various community. This people never bother about the future of the state.

With the coming of this new year it is the need of the hour that we as a citizen find something that we can do together to bring peace and prosperity in the state. If we can do something better for the society then we deserve celebrating the New Year. If we can change to a better tomorrow then the new year wishes of 2019 will do good for the society.

Lets think positive lets act for change.

Letters, Feedback and Suggestions to 'Imphal Times' can be sent to our e-mail : imphaltimes@gmail.com. For advertisement kindly contact : 0385-2452159 (O). For time being readers can reach the office at Cell Phone No. 9862860745 for any purpose.

TAKING THE STREET VENDOR SERIOUSLY

By - N. Brajakanta Singh,
Guest Lecturer, Department of Law, Manipur University.

Abstract:

Street vending in India is a reality. It is an important source of employment for a large number of urban and rural poor as it requires low skills and small financial inputs. The street vendors sells many goods, such as food items, vegetables, clothes, fruits, seasonal items etc. who have no other channels of marketing the products that they produce. They also ensure the availability of goods and services at cheaper rates to people. However, they are rarely treated with the same measure of dignity and tolerance as other permanently settled vendors. They are constantly harassed by the authorities. They are targeted by municipalities and police in the urban areas as illegal traders, the urban middle class complains that these vendors make urban life a living hell as they block pavements, create traffic problem and also engage in anti-social activities. For most street vendors, trading from the road site and pavements is full of uncertainties. Besides sudden raids by municipal staffs and police, street vendors normally have to regularly bribe the authorities in order to carry out their business on the streets. All these mean that substantive income from street vending is spent on greasing the palms of unscrupulous authorities or to private money lenders. In fact in most cases street vendors have to survive in a hostile environment though they are service providers. Street vendors are often regarded as public nuisance. They are accused of depriving pedestrians of their space, causing traffic jams and having links with anti-social activities. The lack of recognition of the role of the street vendors culminates in a multitude of problems faced by them: obtaining license, insecurity of earnings, insecurity of place of hawking, gratifying officers and musclemen, constant eviction threat, fines and harassment by traffic policemen. Street vendors have poor social protection and their working conditions on the streets expose them to a variety of safety and health issues. On the other hand, regulation of street vendors occupying streets, pavements and other public places is an indispensable function of urban local bodies. Therefore their protection is the issue. The present paper attempts to highlight that the recognition, protection and enforcement of the rights of street vendors should not be neglected by the municipal bodies in their management of public places. It is also attempted to draw serious attention of the Imphal Municipal Corporation to protect the rights of street vendors in Imphal area by effective implementation of the law relating to protection of street vendors.

MANAGING PUBLIC SPACES IN URBAN MUNICIPAL AREA

The Manipur Town Planning and Country Planning Act, 1975 provides that in residential area there should be provisions for 4 to 6 shops and 10 hawkers per 1,000 people. The Manipur Municipalities Act, 1994 also empowers the Imphal Municipal Corporation to manage public places, regulate markets, trading and commercial activities in Imphal area. Other laws like the Police Act, the Motor Vehicles Act, the Criminal Procedure Code, etc. are enforced to protect and regulate public spaces and allow free flow of traffic on the roads. Hawkers become the main victims of these laws because they are viewed as the main obstructers and encroachers. What the municipal authorities and the police overlook are that there could be many other forms of encroachment, besides hawkers. The rapid increase of vehicles on the roads creates problems not only of traffic congestion but also of parking space. Several shops encroach on the pavements by illegally extending their construction. Such encroachments are often tolerated by the municipal authorities and the city police. Despite the fact that hawkers perform an important role in urban life their importance is considerably undermined by the municipal administration. There are sections of the public who feel that hawkers encroach on spaces meant for civic use, and others simply consider them as eyesores. The shop keepers in the market feel that their businesses are affected by these street vendors. Even those, who may be buying goods from these street vendors, would like for them to be more obscure. Street vendors are viewed as a problem that has to be controlled rather than as production units that contribute to the urban economy. They are often viewed as a nuisance or obstruction to other commerce and the free flow of traffic. Since they typically lack legal status and recognition, they frequently experience harassment and evictions from their selling place by local authorities or competing shopkeepers. City administrators continue to regard hawking as illegal and hence hawkers are under constant threats of eviction and victimisation. At the same time we can see that hawkers cannot be removed not merely because a large number of people are dependent on street vending for their livelihood, but also because the common urban dweller benefits from their

or even at their doorstep. They provide affordable options to the buyers and therefore enable a number of low income and middle income households to sustain in the urban areas. Therefore, street vendors perform a dual role in the urban economy; supporting a large number of households and providing livelihood opportunities to people. It also provides an outlet to people looking for seasonal employment as well as an impetus to the business of small scale or home-based industries. Therefore street vending is a way for poor people to earn livelihood and make their way out of poverty. It also sustains the urban middle income and low income groups by making available to them affordable goods and services at convenient locations. Overwhelming majority of street vendors in Manipur, particularly in Imphal are women with small percentage of male hawkers mostly from outside the state (Bihar, Assam and West Bengal). They sell a variety of goods such as fish, vegetables, handloom and handicraft products, garments, bread and confectionery, plastic goods, books, newspapers and magazines, fruits, rice, seeds, other home-based manufactured items etc.

INTRODUCTION

A large section of street vendors in urban areas are those with low skills and who have migrated to the larger cities from rural areas or small towns in search of employment. These people take to street vending when they do not find other means of livelihood. Though the income in this business is low, the investment too is low and the people do not require special skills or training. Hence for these people, men and women, street vending is the easiest form for earning their livelihood. These street vendors in fact build an important component in the chain of goods supply. Street vending is not only a source of self-employment to the poor in cities and towns but also a means to provide 'affordable' as well as 'convenient' services to majority of the urban population. Further these street vendors provide goods to the consumers at convenient locations



Photo: Street vendors in Imphal

services. It is true that hawkers do create problems for pedestrians and commuters. However the solution lies not in banning or curbing hawking but in regulating this vocation. This can only be done when the municipal authorities stop treating hawkers as anti-social elements.

LEGAL STATUS OF STREET VENDORS

The controversy whether any right per se vests in street vendors to carry out their vocation in order to earn a livelihood has been well settled in a catena of cases by the Supreme Court of India. In 1985, for the first time, in the case of *Bombay Hawkers' Union vs. Bombay Municipal Corporation and Ors.*, [1985(3)SCC528], the Supreme Court upheld the right to livelihood of the street vendors and went on to observe that unreasonable restrictions and conditions cannot be imposed on street vendors. There are no legal reasons for preventing hawking. Later in 1989, the Supreme Court gave another landmark judgment regarding this issue in the case of *Sodhan Singh vs. NDMC.* [1989(4)SCC 155]. The Apex Court ruled that every individual has the right to earn a livelihood as a fundamental right. Hawking is thus a fundamental right provided it does not infringe on the rights of others. The Court directed all state governments to evolve regulations for hawking through zones. In *Gainda Ram vs. MCD.* [2010(10)SCC715], the court observed: "the fundamental right of the hawkers, just because they are poor and unorganized, cannot be left in a state of limbo nor can it left to be decided by the varying standards of a scheme which changes from time to time under the orders of the Court". It can be safely stated that the street vendors too have fundamental right to earn their livelihood and their goods cannot be confiscated or destroyed arbitrarily by the police or municipal authorities. The municipal authorities are required to follow the requirement of natural justice i.e., right to notice and hearing before eviction or relocation of street vendors and confiscating their goods.

THE STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) ACT, 2014

The new legislation is enacted to protect the rights of urban street vendors and to regulate street vending activities based on various Supreme Court and high court judgments and the National Policy on Urban Street Vendors 2009. The important features of the Act are as follows:

a. NATURAL MARKETS

According to Section 2(e) "natural market" means a market where sellers and buyers have traditionally 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. It is a well-recognized concept that markets tend to grow around certain areas depending on factors like customer preferences, economic status of the inhabitants etc. It is pertinent that regard be given to these natural markets and that in order to regularize the street vending activities these vendors are not randomly relocated.

b. TOWN VENDING COMMITTEE

A new body to manage, regulate and control street vendors is created by the law. Section 22(1) mandates the appropriate Government may, by rules made in this behalf, provide for the term and the manner of constituting a Town Vending Committee in each local authority. Sub-section (2) provides that each Town Vending Committee shall consist of:— (a) Municipal Commissioner or Chief Executive Officer, as the case may be, who shall be the Chairperson; and (b) such number of other members as may be prescribed, to be nominated by the appropriate Government, representing the local authority, medical officer of the local authority, the planning authority, traffic police, police, association of street vendors, market associations, traders associations, non-governmental organisations, community based organisations, resident welfare associations, banks and such other interests as it deems proper; (c) the number of members nominated to represent the non-governmental organisations and the community based organisations shall not be less than ten per cent.; (d) the number of members representing the street vendors shall not be less than forty per cent, who shall be elected by the street vendors themselves in such manner as may be prescribed; Provided that one-third of members representing the street vendors shall be from amongst women vendors; Provided further that due representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities from amongst the members representing street vendors.

c. VENDING ZONE

Section 2(n) defines "vending zone" and it means an area or a place or a location designated as such by the local authority, on the recommendations of the 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.