

AS INTRODUCED IN THE RAJYA SABHA
ON THE 25TH FEBRUARY, 2011

Bill No. LXXI of 2010

THE FREEDOM OF EARNING LIVELIHOOD BILL, 2010

A

BILL

to provide for complete freedom to earn livelihood to the hawkers, vendors, potters kabariwallas, cycle rickshaw and cart pullers, roadside eateries, mechanics, fish and chicken outlets, patriwallahs etc., by prohibiting the local police personnel of local bodies from impounding or taking away the tools, wares, stuff, cycle rickshaw, cart, rehri, etc., so as to enable the poverty stricken and unemployed youth and other citizens to earn their livelihood without fear and feed their dependent families and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Freedom of Earning Livelihood Act, 2010.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

Short title
and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "hawker" means a person who earn his livelihood by selling household articles or items like fruits, vegetables, clothes, utensils, food items, dry fruits, *paani puri*, *chaat*, *pakor*as and such eatables by going from house to house or street to street hawking on cart, bicycle, basket, *rehri* or any other mode;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "rickshaw puller" means a person who physically pulls a cycle rickshaw of any kind which includes a hand cart in order to earn his livelihood;

(e) "roadside mechanic" include the person repairing bicycle, cycle rickshaw, scooter, moter cycles and other two wheelers and motorized vehicles, those repairing footwear purses, utensils and other wares, electronic items, etc. by the roadside or under the tree without erecting any permanent structure at the site and without hindering the smooth traffic flow on the road;

(f) "vendor" include any person who sells food items, fruits, vegetables and other small items, eatables like *chana-bhatura*, *puri-chhole*, ice-creams, *chaat*, roasted or fried groundnuts and such other eatables and household items from a stall or place in the open space.

Freedom of earning livelihood to citizens.

3. (1) Notwithstanding anything contained in any other law for the time being in force every citizen including the hawkers, vendors, roadside mechanics, bicycle rickshaw and cart pullers, potters, *kabariwallahs*, fish or chicken sellers, eateries owners, *patriwallahs*, etc., and similar other vocations shall have complete freedom to earn their livelihood through such vocations without any hindrance or interference from any authority of the Government including those of Police and local self Government like Corporations, Municipalities, etc.

(2) Any authority of the Government who contravenes the provisions contained in sub-section (1) of sections shall be guilty of dereliction of his duties and shall be punished accordingly.

Local Self Government authorities and Police Personnel not to confiscate or impound the articles, wares, etc.

4. Notwithstanding anything contained in any other law for the time being in force, no authority of any Local Self Government such as Municipalities, Municipal Corporations, Municipal Councils or by whatever name known or called as well as the authorities of local Police shall confiscate or impound or forcibly take away the articles, foodstuff, wares, tools, bicycle, rickshaw, carts, etc. of the citizens covered under this Act.

Conditions to be followed for earning livelihood.

5. For earning hassle free livelihood under the provisions of this Act, the concerned citizen shall not,—

(a) sell or hawk any article or stuff which is injurious to health of the public;

(b) obstruct the public place such as roads, footpath, parks and such other places declared as public places by the appropriate Government;

(c) obstruct the flow of traffic or vehicles and pedestrians, as the case may be;

(d) sell anything which is injurious to health or which is vulgar, toxic and against the moral values of the general public; and

(e) such other conditions as the Central Government may, by notification in the Official Gazette, specify.

- 6.** It shall be duty of the appropriate Government to ensure strict compliance of the provisions of this Act to ensure freedom of earning livelihood by every citizen residing within its territorial jurisdiction. Appropriate Government to ensure compliance.
- 7.** Any Officer of Local Self Government or of any Department of the appropriate Government including Police, who contravenes the provisions of section 3 and 4 of the Act shall, notwithstanding anything contrary contained in any other law or service rules of any nature, be dismissed from service forthwith and shall also be liable for fine which may extend to two lakhs rupees. Penalty.
- 8.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save aforesaid the provisions of this Act shall be addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act. Act to have overriding effect.
- 9.** The Central Government may give directions to the Government of any State for implementing the provisions of this Act in the State. Power to give directions.
- 10.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty. Power to remove difficulty.
- 11.** The Central Government, may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

India is a vast Country and after China, we have the largest population, in the globe. With this population boom, our nation is facing the ever growing unemployment scenario which does not match with the growing population. Employment generation is decreasing and the number of unemployed is increasing rapidly. The problem has become more acute due to global meltdown and recession all over the world. Government services are becoming scarce and so is the case of private sector. Agriculture, micro, small and medium industries used to be biggest employment providers, but whereas recession has taken the toll on micro, small and medium industries. Agriculture has become the victim of vagaries of nature and slump because of unremunerative price structure and fall in prices of commodities and, therefore, the employment generation is not commensurate with the ever growing population.

In such a scenario self employment appears to be the only way to tackle the unemployment problem but due to financial constraints everybody can not become self employed. However, quite a large number of citizens try to earn their livelihood through various means such as pulling bicycle rickshaw, carts etc., hawking or vending articles, fruits, vegetables, clothes, wares, eatables, fish chicken etc., working as potters, *kabariwallahs*, roadside mechanics repairing two wheelers, motorized vehicles, footwear, purses, utensils and other wares, electronic items, selling readymades, etc. in the streets, roadside and other places to earn their livelihood and feed their poor families but most of them are hounded by local Police and Municipal authorities. They are compelled to pay heavy bribes and if they do not do so then their articles, wares and other things are taken away and confiscated and impounded and heavy fines are imposed on them. As such they are unable to earn their livelihood because they remain under threat and they fall in the net of anti-social elements. When State can not provide employment opportunities, the poor should not be denied their right to earn livelihood. So there should be complete and hassle free freedom for all the citizens of the Country so that people will earn their livelihood and support their families and there should be no interference from Police or local authorities in their vocation. Recently, even the Supreme Court of India expressed its concern about the plight of *Rehri* and *Patriwallahs* and directed to formulate rehabilitation plans for them.

This Bill seeks to achieve the above objects.

Hence this Bill.

DR. AKHILESH DAS GUPTA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carry out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is, of normal character.

RAJYA SABHA

A

Bill

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(Dr. Akhilesh Das Gupta, M.P.)