

THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No. 321 of 2015

01. Sri Manik Debnath,
son of late Haricharan Debnath,
Aralia, P.O. Jogendranagar,
P.S. East Agartala, Dist. West Tripura
02. Sri Nandagopal Saha,
son of late Naresh Chandra Saha,
Dhaleshwar, P.O. Dhaleshwar,
P.S. East Agartala, Dist. West Tripura
03. Sri Ranjan Roy,
son of late Anil Chandra Roy,
Town Indranagar, P.S. East Agartala, Dist. West Tripura
04. Sri Ratan Banik,
son of late Biswambar Banik,
Madhya Bhuban Ban, P.S.- West Agartala,
Dist.- West Tripura
05. Smt. Sandhya Shil,
wife of Dharendra Shil,
Town Hall, P.O – Agartala, P.S.- West Agartala,
Dist.- West Tripura
06. Sri Asit Pal,
S/O – Pradip Pal,
Jagaharimura, P/S- East Agartala, Dist.- West Tripura
07. Smt Sabitri Pal,
W/O – Parimal Das,
Indranagar, P/S- East Agartala, Dist.- West Tripura
08. Sri Suman Das,
S/O – Shanti Gopal Das,
Reshambagan, P.S.- Jirania, Dist.- West Tripura
09. Sri Anup Kumar Roy,
S/O - Late Bireshwar Roy,
Shibnagar Lotus Club, P/S- East Agartala, Dist.- West Tripura
10. Sri Sujit Deb,
S/O - Late Nirod Chandra Deb,
Sakuntala Road, P/S- West Agartala, Dist.- West Tripura
11. Babul Debnath,
S/O - Late Jaharlal Debnath,
Town Indranagar, P/S- East Agartala, Dist.- West Tripura
12. Sri Sujan Das,
S/O – Santi Gopal Das,
Reshambagan, P/S- Jirania, Dist.- West Tripura
13. Sri Narayan Pal,
S/O - Late Haribal Pal,
Ramnagar Road No 3, P.O – Ramnagar,
P/S- West Agartala, Dist.- West Tripura

14. Sri Ananda Shil,
S/O – Amulya Shil,
Ranirbazar, Durganagar, P/S- Ranirbazar, Dist.- West Tripura
15. Sri Pradip Biswas,
S/O – Nantu Biswas,
Town Indranagar, P/S- East Agartala, Dist.- West Tripura
16. Sri Krishna Saha,
S/O - Late Harendra Kumar Saha,
Purba Pratapgarh, P/S- West Agartala, Dist.- West Tripura
17. Sri Gouranga Saha
S/o- Late Dwarika Nath Saha
Vill- East Pratapgarh, Loknath Para, Agartala, West Tripura
18. Sri Dulal Sutradhar,
S/O - Late Phanindra Sutradhar,
Jogendranagar, P/S- East Agartala, Dist.- West Tripura
19. Sri Samir Datta,
S/O - Late Girish Chandra Datta,
Chandinamura, P/S- West Agartala, Dist.- West Tripura
20. Sri Sudhan Shil,
S/O - Late Gayacharan Shil,
Airport Road, Narsingarh, P/S- Airport, Dist.- West Tripura
21. Sri Narayan Sarkar,
S/O – Milan Sarkar,
Bhati Abhoynagar, P/S- East Agartala, Dist.- West Tripura
22. Sri Samar Debnath,
S/O – Nani Gopal Debnath,
Malohnagar, P/S- East Agartala, Dist.- West Tripura
23. Sri Bikash Sarkar,
S/O – Bimal Sarkar,
Bhati Abhoynagar, P/S- East Agartala, Dist.- West Tripura
24. Sri Dinesh Debnath,
S/O – Priyadhan Debnath,
Town Indranagar, P/S- East Agartala, Dist.- West Tripura
25. Sri Arun Sau,
S/O – Biju Sahu,
Durga Chowmuhani, P.O- Ramnagar,
P/S- West Agartala, Dist.- West Tripura
26. Sri Bimal Rudra Paul,
S/O - Late Arjun Rudra Paul,
Lalmatia, P/S- East Agartala, Dist.- West Tripura
27. Sri Kamal Saha,
S/O - Late Matilal Saha,
Ramnagar Road No 10, P.O – Ramnagar,
P/S- West Agartala, Dist.- West Tripura
28. Sri Debo Thakur,
S/O – Sri Laxman Thakur,
Permanent address –
Vill. – Bagras, P/S- Bakhri, Dist.- Begusarai, Bihar
Present address
Opposite side of Rabindra Bhavan,

- Jagannath Bari Road, P.S – West Agartala,
District – West Tripura
29. Sri Amak Tanti,
S/O - Late Dukhi Tanti,
Permanent address –
P.S – Birpur, Dist.- Begusarai, Vill + P.O – Saranja, Bihar
Present address
Opposite side of Rabindra Bhavan, Jagannath Bari Road,
P.S – West Agartala, District – West Tripura
 30. Sri Ajit Thakur,
S/O – Chandan Takur,
Permanent address –
P.S – Birpur, Dist.- Begusarai, Vill + P.O – Saranja, Bihar
Present address
Kaman Chowmuhani, P.S – West Agartala,
District – West Tripura
 31. Sri Jiban Deb,
S/o- Lt. Gopal Deb,
Bhattapukur, Agartala, P.O- A.D. Nagar,
P.S- A.D Nagar, Agartala, West Tripura
 32. Sri Prasanta Saha,
S/o- Chandan Kumar Saha,
Santipalli, Charipara, P.O. & P.S.- A.D Nagar,
Agartala, West Tripura, Pin-799003
 33. Sri Ranjit Saha,
S/o- Lt. Subal Saha,
Ramthakur Para, Sadar, Agartala, P.O.- Agartala,
West Tripura, Pin-799001
 34. Sri Asish Dey,
S/o- Mamata Dey,
Bibeknagar, Village- Madhuban, Amtali,
Bishalgarh, West Tripura
 35. Sri Sankar Saha,
S/o- Kanti Lal Saha,
Murabadi, P.O.- Bishalgarh, Pin-799102
 36. Sri Narayan Chandra Saha,
S/o-Lt. Haridas Saha,
AMC Ward No-26, Chowrangee SB School,
P.O + P.S- A.D Nagar, Pin-799003, Agartala, West Tripura
 37. Sri Narayan Saha,
S/o-Lt. Manindra Saha,
Madhupur, Bishalgarh, P.S- Bishalgarh, West Tripura
 38. Sri Haralal Barman,
S/o- Lt.Hiren Barman,
146, Kanchan Nagar, Village- Charipara, P.S- Amtali,
Bishalgarh, West Tripura
 39. Sri Mitran Saha,
S/o- Ajitlal Saha,
155, Maloynagar, Ratasa Koloni, Village- Paragraph,
Agartala, West Tripura

40. Sri Prahalad Dey,
S/o- Lt. Nripendra Dey,
Village- Madhuban, P.O- Sekerkote, P.S- Amtali,
Agartala, West Tripura
41. Sri Sankar Sarkar,
S/o- Lt. Jagadish Sarkar,
Village- South Champamura, P.O- Champamura,
P.S.- Bishalgarh, Pin- 799130
42. Sri Rakesh Paul,
S/o- Rabindra Paul,
Village- Madhuban, P.O- Ranirkhamar,
P.S- Amtali, Tripura West
43. Sri Sukhen Saha,
S/O - Niranjana Saha,
Village- Joynagar, P.O- Agartala,
P.S- West Agartala, Pin-799002
44. Sri Chandan Das
S/o- Rabindra Das
Village- West Pratapgarh, P.O- A.D Nagar,
Agartala, West Tripura
45. Sri Vivekananda Biswas,
S/O- Nityananda Biswas,
Village + P.O-Pratapgarh P.S- West Agartala,
Pin-799004
46. Sri Kishore Chandra Deb,
S/O- Lt. Jyotish Deb,
Vill+ P.O +P.S- Bishalgarh, Sipahijala, Pin-799102
47. Sri Dipak Das,
S/O- Lt. Joy Chandra Das,
Village + P.O- Charipara, P.S – Amtali, West Tripura,
PIN- 799003
48. Sri Tamit Saha,
S/O – Tapan Kumar Saha,
Village – Badharghat, P.O – Siddhi Ashram,
P.S – Amtali, West Tripura
49. Sri Nitai Sarkar,
S/O –Lt. Amarchand Sarkar,
Village + P.O – Charipara, P.S – Amtali, West Tripura
50. Sri Samir Ghosh,
S/O – Lt. Parameshwar Ghosh,
Village + P.O – Barjala, P.S – West Agartala,
District – West Tripura, PIN - 799001
51. Sri Radha Krishna Banik,
S/O –Lt. Nitai Banik,
Village – Bhattapukur, P.O – A.D Nagar,
P.S – A.D Nagar, West Tripura
52. Sri Nayan Acharjee,
S/O – Nirmal Acharjee,
Village – Bhattapukur, P.O – A.D Nagar,
P.S – A.D Nagar, West Tripura

53. Sri Indrajit Banik,
S/O – Radhakrishna Banik,
Village – Bhattapukur, P.O – A.D Nagar,
P.S – A.D Nagar, West Tripura
54. Sri Kishore Das,
S/O – Lt. Makhan Lal Das,
Village + P.O – East Aralia,
P.S – West Agartala, West Tripura
55. Sri Litan Sarkar,
S/O – Roidas Sarkar,
Village + P.O – Gangail Road, Agartala,
P.S – West Agartala, West Tripura
56. Sri Bhanu Deb,
S/O – Lt. Chandra Kumar Deb,
Vill + P.O – West Pratapgarh, Agartala, West Tripura
57. Smt Swapna Chakraborty,
W/o- Sri Nirmal Chakraborty,
Ward No-11, Near BR Ambedkar School, Jaynagar,
Agartala, West Tripura, PIN-799001
58. Smt. Laxmi Debnath,
D/o- Sri Sadhan Chandra Debnath,
Ramnagar, P.O- Ramnagar, Agartala,
West Tripura, PIN-799001
59. Smt Anjana Das,
D/o- Lt. Anil Das,
Ward No-23, Bhattapukur, Near Apanjan Club,
P.O- Arundhuti Nagar, Agartala, West Tripura
PIN-799003
60. Sri Shuklal Saha,
S/o-Lt Kalachan Saha,
Ward No-24, Bhattapukur, P.O- Arundhuti Nagar,
Agartala, West Tripura, PIN-799003
61. Sri Prankrishna Saha,
S/o- Lt.Mantu Saha,
Surjya Mani Nagar, P.O- Surjya Mani Nagar,
Agartala, West Tripura, PIN-799130
62. Sri Sanjit Das,
S/o- Lt. Suresh Das,
Shilghati, Udaipur, Kishoreganj, Kakraban GP,
District- Gomati,
Presently residing at Battala, Agartala, West Tripura
P.O- Agartala, Pin-799001
63. Sri Shyamal Bhowmik,
S/o- Sri Nani Gopal Bhowmik,
Kali Tilla, Bhattapukur, Ward No-29, Agartala, West Tripura,
P.O.- A.D Nagar, Pin- 799003
64. Sri Biswajit Sarkar,
S/o- Madhu Sarkar,
Lembucherra, Fatikcherra, Agartala, West Tripura

65. Sri Jayabrata Deb,
S/o- Lt. Shibabrata Deb,
Ward No-32, Katasheola, Jogendra Nagar,
West Tripura, Pin-799004
66. Sri Krishan Majumder,
S/o- Babul Majumder,
Banik Para, P.o- Arundhuti Nagar,
Agartala, West Tripura, Pin-799003
67. Sri Pradip Saha,
S/o- Lt. Dhirendra Saha,
Surjya Mani Nagar, Ward No-2,
P.O- Surjyamani Nagar, Madhupur, Pin- 799022
68. Sri Naresh Debnath,
S/o- Lt. Nani Gopal Debnath,
Gholaghati, Takerjala, West Tripura
69. Sri Sanjit Debnath,
S/o- Sadhan Debnath,
Gajaria, Badharghat, West Tripura
70. Sri Chitta Ranjan chakraborty
S/o- Lt. Dinesh Chandra Chakraborty,
96, Briddanagar, P.S- Ranir Bazar, Sub- Division- Sadar
West Tripura, Pin-799008
71. Sri Sanjib Debnath,
S/o- Lt. Haripada Debnath,
183, Arabinda Sarani, Agartala, West Tripura,
Sub- Division- Sadar, Pin-799003
72. Sri Rajib Das,
S/o- Gouranga Das,
40, Din Dayal Ashram Para, Village- Badharghat
P.O- Arundhuti Nagar, Pin-799003
73. Sri Premananda Barman,
S/o- Lt. Nitai Barman, Ward No- 05,
Kanchan Nagar, Charipara, Dukli, West Tripura, Pin- 799003
74. Sri Debaji Poddar,
S/o- Narayan Chandra Podder,
207, West Joynagar Para, Sadar, Agartala,
West Tripura, Pin-799001
75. Sri Mantu Saha,
S/o- Lt. Manindra Saha,
Post Office Chowmuhani, Ward No-21,
Mantri Bari Road, P.O. Agartala, Pin- 799001
76. Sri Manoj Saha,
S/o- Lt. Matilal Saha,
Krishna Nagar, Natun Palli, Near Chhatra Sangha Club,
Krishnanagar, Sadar, Agartala, West Tripura, Pin 799001
77. Sri Biplab Saha,
S/o- Sri Guru Charan Saha,
Sakuntala Road, Agartala, West Tripura, Pin-799001
78. Sri Swapan Banik,
S/o- Lt. Rash Mohan Banik,

- Ward No-15, Lal Bahadur Club,
Agartala, West Tripura, Pin- 799001
79. Sri Krishna Chandra Das,
S/o- Nibaran Chandra Das,
Hrishi Palli, P.O.- Agartala, Bhati Abhoynagar,
P.S.- West Agartala, Dist- West Tripura
 80. Sri Dharendra Chandra Rudra Paul,
S/o- Lt. Dwarik Ch Rudra Paul,
Indra Nagar, Gangail Road No-3, Near- Gita Mandir,
Town Pratapgarh, Agartala, West Tripura, Pin-799001
 81. Smt. Bela Das,
W/o- Lt. Narayan Das,
Ward No-32, Majumder Para, Purba Pratapgarh,
Agartala, West Tripura, Pin-799001
 82. Sri Tapan Saha,
S/o- Lt Nimai Saha,
Madhya Banamalipur, Near BK Road, Sub Division- Sadar,
Agartala, West Tripura, P.O.- Agartala, Pin-799001
 83. Smt Padma Deb,
W/o- Nandan Deb,
Madhya Bhuvanban School, Ramnagar, Agartala,
West Tripura, Pin-799002
 84. Sri Haradhan Dey,
S/o- Lt. Narayan Dey,
Noagaon Krishnanagar High School, Mouja- Indra Nagar,
P.O- Noagaon, Krishnanagar, Agartala, West Tripura,
Pin- 799006
 85. Sri Debendra Chandra Sarkar,
S/o- Gagan Chandra Sarkar,
AMC Ward No-16, Road No-13, P.O- Dhaleshwar,
P.S- East Agartala, Sub- Division- Sadar, Pin-799007
 86. Sri Shyamal Das,
S/O - Lt. Arun Kumar Das,
Ward No-15, North Banamalipur, Agartala AMC, Pin-799001
 87. Sri Swapan Kumar Saha,
S/O -Lt. Kshitish Chandra Saha,
59 NBRC Para, Agartala, P.S – West Agartala,
District – West Tripura, Pin-799001
 88. Sri Narayan Rudra Pal,
S/O – Naresh Rudra Pal,
285 Lanka Mura (Panchayat Para), Vill – Lankamura,
P.S – Airport, Sadar, West Tripura, Pin-799009
 89. Sri Swapan Barman,
S/o- Haripada Barman,
172, Badher Paschimangsha, Village- Agartala,
P.S- West Agartala, Pin- 799001
 90. Sri Sanjib Kumar Nama Das,
S/o- Gopal Nama Das,
Bhattapukur, Badharghat, P.S- West Agartala,
District- West Tripura

91. Smt Champa Deb,
D/O – Nepal Chandra Deb,
Resident of Amiya Sagar Para, 6, J B Road, Sadar,
District – West Tripura
92. Sri Ajit Saha,
S/O – Lt. Narayan Saha,
Resident of East Pratapgarh, Lokenath Para,
P.O – Pratapghar, Agartala, District – West Tripura
93. Sri Salendar Kr Gupta,
S/O – Sri Ashoke Kumar Gupta,
Resident of Mantribari Road, P.O – Agartala,
P.S – West Agartala, District – West Tripura
94. Sri Santosh Kumar Gupta,
S/O – Sri Ashoke Kumar Gupta,
Resident of Mantribari Road, P.O – Agartala,
P.S – West Agartala, District – West Tripura

.....Petitioners

– Vs –

01. The State of Tripura,
(to be represented by the Commissioner cum Secretary,
Urban Development Department, New Secretariat Building,
New Capital Complex, Kunjaban, Agartala, West Tripura,
PIN-799 006
02. The Agartala Municipal Corporation,
(to be represented by the Municipal Commissioner,
Agartala Municipal Corporation, City Centre,
Paradise Chowmuhani, Agartala, PIN-799 001
03. The Municipal Commissioner,
Agartala Municipal Corporation, City Centre,
Paradise Chowmuhani, Agartala, PIN-799 001
04. Task Force of Agartala Municipal Corporation,
City Centre, Paradise Chowmuhani, Agartala, PIN- 799 001
05. The Superintendent of Police (Traffic),
Near Swami Vivekananda Maidan (Northern Side),
Agartala, West Tripura, PIN-799 001
06. The Officer in Charge, West Agartala PS,
Post Office Chowmuhani, Agartala,
West Tripura, Pin-799 001
07. The Officer in Charge, East Agartala PS,
Motor Stand, Agartala, West Tripura, Pin-799 001
08. The Director General of Police, Tripura,
Police Head Quarter, Fire Brigade Chowmuhani,
Agartala, West Tripura, Pin-799 001

.....Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioners : Mr. S. Bhattacharjee, Advocate
 For the respondent No.1 & 5-8: Mr. B. C. Das, Advocate General
 For the respondents No.2 to 4: Mr. K. K. Pal, Advocate
 Date of hearing, delivery of : **13.08.2015**
 Judgment and Order
 Whether fit for reporting : **YES**

Judgment and Order (Oral)

By means of this writ petition, the petitioners who have claimed to be the street vendors within the meaning of Section 2(1) of the street vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 have challenged the purported action of the respondent namely Agartala Municipal Corporation in violation of the provisions of Section 3(3) of the said Act whereby it has been provided that no street vendor shall be evicted or, as the case may be, relocated till the survey specified under Section 3(1) of the said Act is carried out for the purpose as laid down. Section 3(1) of the said Act provides that the Town Vending Committee shall, within such period and in such manner as may be specified in the scheme, conduct a survey of all existing street vendors, within the area under its jurisdiction, and subsequent survey shall be carried out at least once in every five years. Section 3(2) of the said Act has obligated the Town Vending Committee, as defined under Section 2(m) of the said Act, to ensure that all existing street vendors, identified in the survey, are accommodated in the vending zones subject to a norm, conforming to two and half per cent of the population of the ward or zone or town or city, as the

case may be and in accordance with the plan for street vending and the holding capacity of the vending zones. Section 3(3) of the said Act provides further that "No street vendor shall be evicted or, as the case may be, relocated till the survey specified under sub-section (1) has been completed and the certificate of vending is issued to all street vendors." The certificate of vending would be issued in terms of Section 4 of the said Act by the Town Vending Committee subject to such terms and conditions and within the period specified in the scheme including the restrictions specified in the plan for street vending. The certificate of vending shall carry the conditions and before issuance of such certificate every street vendor shall furnish an undertaking to the Town Vending Committee to the effect that the business would be exclusively carried on by him or his family members and also to the effect that he has no other means of livelihood and he shall not transfer in any manner whatsoever, including rent, the certificate of vending or the place specified therein to any other person. The certificate of vending would be valid for certain period and if the street vendors dies or suffers from any permanent disability or is ill, one of his family members in following order would be given the certificate of vending for the remaining period.

- (a) spouse of the street vendor;
- (b) dependent child of the street vendor.

02. The petitioners have made allegations by means of this writ petition that without any survey, Agartala Municipal Corporation "..... are evicting and threatening to evict the Petitioner in blatant disregard and disobedience of the Act, 2014

and Rules framed thereunder.” No further details regarding the alleged action are available in the entire writ petition.

03. A preliminary objection was raised by the Registrar, Vigilance by his order dated 30.07.2015 in view of the order No.80 dated 03.07.2015 and the matter has been placed before this Court for passing appropriate order. On the request of Mr. K. K. Pal, learned counsel for Agartala Municipal Corporation made on 05.08.2015, this writ petition has been taken for hearing on the question of maintainability.

04. Mr. Samarjit Bhattacharjee, learned counsel appearing for the petitioner has submitted that Order No.80 cannot impede the petitioners from filing a joint petition as Rule 1 of Chapter V-A of the Gauhati High Court Rules which has been adopted by the High Court of Tripura has been interpreted by the Gauhati High Court in ***Nishitendu Dhar vs. State of Assam and another*** (Judgment and order dated 01.12.1995). For the purpose of reference the provisions of Rule 1 of Chapter V-A of the Gauhati High Court Rules is extracted hereunder:

"An application for a direction or order or writ under Article 226 of the Constitution of India, other than writ of habeas corpus, shall be drawn up in the form contained in the schedule to this Chapter and shall be accompanied by an affidavit verifying the facts relied upon.

Separate applications should be filed for each individual where interests are not identical even if there is one common order covering several cases and the facts of each case should be separately supported by affidavit."

It is to be further noted that by way of amendment carried out by the Notification dated 19.08.1992, the following

proviso has been inserted after the second paragraph in Rule 1 of Chapter V/A quoted above.

"Provided that more than one such individual can jointly file a single writ petition on each of them paying court fee payable on such application."

05. When, that proviso was challenged in ***Nishitendu Dhar vs. State of Assam and another***, the Gauhati High Court while refusing to strike down the said amendment has held that the amendment cannot be interpreted to mean as the general rule that in every case when a single writ petition is filed by several individuals, court fees will have to be paid by each of them separately on the writ application. It has been further held that since the second paragraph does not provide for separate application where interests are identical the impugned proviso cannot enlarge the scope of the second paragraph of the said rule to imply that a single petition cannot be filed by several individuals whose interests were identical. It has been held further that "In our opinion the impugned proviso only provides an exception from the general rule stated in the second paragraph of Rule 1 of Chapter V/A of the Rules and that separate applications to be filed where interest are not identical and the exception is that a single application may also be filed by several individuals where the interests are not identical provided the separate court fee is paid for each such individual in the single application. But in such a case where several individuals identical case where a single application is sought interest by paying individual the High Court can consistent with the principles of CPC always exist in filing the writ petition by each such individual where it deems fit."

06. Thus, the said interpretation did not leave any space for ambiguity. It is only in those cases where the interests of individual joining in the same writ petition are not identical and where the principles of Order 1, Rule 1 of CPC are not applicable the separate application has to be filed. After such reading down, the said proviso has been saved by the Gauhati High Court.

07. The question of maintainability that has been raised by the Registry is that whether the writ petition in hand has been filed in violation of Order No.80 on the premises that each writ petitioner might have separate cause of action and as such according to Order No.80 the writ petitioners ought to have filed separate petitions.

08. Mr. Bhattacharjee, learned counsel for the petitioner has submitted that since the interests of the writ petitioners are identical, Order 80 may not have any relevance in the present writ petition. Notwithstanding that even in ***Nishitendu Dhar vs. State of Assam and another***, the Gauhati High Court did not shut the door finally. Hence, the option remains with the hawkers whether they would file the separate writ petition or not. According to him, there is no apparent conflict between the said judgment and the Order No.80. To determine the question of maintainability, it is essential to ascertain the nature of the cause or in other words, what the cause is for which the writ petition has been filed by the petitioners. According to the petitioners the cause is their threatened eviction in violation of Section 3(3) and Section 12 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. In ***Maharashtra Ekta Hawkers Union***

and another vs. Municipal Corporation, greater Mumbai and others reported in **(2014) 1 SCC 490**, the apex court followed the principles laid down in **Gainda Ram and others vs. Municipal Corporation of Delhi and others** reported in **(2010) 10 SCC 715** where the apex court has framed elaborate guidelines how to protect the livelihood and regulate the street vending. The said decision in **Maharashtra Ekta Hawkers Union and another vs. Municipal Corporation, greater Mumbai and others** is based on the **Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2009**. It is needless to say that in **Gainda Ram and others vs. Municipal Corporation of Delhi and others**, the apex court has emphasized the necessity of a structured legislation in view of the provisions of the bill. This decision of the apex court was the beacon light in protection of the livelihood of the street vendors and regulation of the street vending. But with the passage of time, **the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014** has been enacted under the aegis of Ministry of Housing and Urban Poverty alleviation w.e.f. 01.05.2014. In this writ petition there is no description of the cause for filing the writ petition by the writ petitioners even though in the para 4 of the said writ petition it has been admitted that the individual petitioners are carrying on their vending on different places within the Agartala Municipal Corporation and few of them have their trade license issued by the Agartala Municipal Corporation. Except the sweeping general statements that Agartala Municipal Corporation is evicting the petitioners or they are apprehensive of

eviction, no details are available to ascertain the cause of filing the writ petition by the individual petitioners. However, it has been stated in the writ petition that all the hawkers and street vendors have common, same and identical interest in the writ petition. That statement is not enough to ascertain the nature of cause to examine the similarity of interest or cause.

09. Mr. B. C. Das, learned Advocate General has appeared for the respondent No.1, the State of Tripura and has categorically made a statement that the Agartala Municipal Corporation has not taken any drive or initiative to evict any street vendors from any zone. The writ petitioners do not have any cause and the writ petition has been structured on imaginary grounds. According to learned Advocate General, the Government of Tripura has by notification under No.F.16(35)-UDD/DUD/2014/3022-29 dated 25.06.2015 constituted a committee for framing appropriate rules under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and necessary rules under the Tripura Municipal Act, 1994. Learned Advocate General has further apprised this Court that no action against any street vendor would be taken unless the necessary rules are framed under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and Tripura Municipal Act, 1994. He has further assured this Court that for taking any action to evict any unauthorized person required survey would be carried out through the Town Vending Committee which would be constituted by virtue of the contemplated rules and all necessary steps would be taken in accordance with the rules. The apprehension of the writ petitioners

are without any foundation and for this the writ petition is entirely for publicity interest.

10. In view of the said statement made by the learned Advocate General in the court, this writ petition is disposed of without deciding the same on merit.

11. The respondents are prohibited to evict any street vendor without observing the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and the rules as contemplated to be made thereunder. Till the rules, as may be framed under the Tripura Municipal Act, 1994 no action shall be taken against any street vendor without the survey as required. Any observation made in this order shall not come in the way of implementing the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. Before parting with the records, this Court is constrained to observe that the way the vakalatnama (the deed of power) has been filed along with this writ petition is not acceptable in law. In ***Uday Shankar Triyar vs. Ram Kalewar Prasad Singh and Anr.*** reported in **(2006) 1 SCC 75** the apex court has observed as under:

"21. We may at this juncture digress and express our concern in regard to the manner in which defective Vakalatnamas are routinely filed in courts. Vakalatnama, a species of Power of Attorney, is an important document, which enables and authorizes the pleader appearing for a litigant to do several acts as an Agent, which are binding on the litigant who is the principal. It is a document which creates the special relationship between the lawyer and the client. It regulates and governs the extent of delegation of authority to the pleader and the terms and conditions governing such delegation. It should, therefore, be properly filled/attested/accepted with care and caution. Obtaining the signature of the litigant on blank Vakalatnamas and filling them subsequently

should be avoided. We may take judicial notice of the following defects routinely found in Vakalatnamas filed in courts :

(a) Failure to mention the name/s of the person/s executing the Vakalatnama, and leaving the relevant column blank;

(b) Failure to disclose the name, designation or authority of the person executing the Vakalatnama on behalf of the grantor (where the Vakalatnama is signed on behalf of a company, society or body) by either affixing a seal or by mentioning the name and designation below the signature of the executant (and failure to annex a copy of such authority with the Vakalatnama).

(c) Failure on the part of the pleader in whose favour the Vakalatnama is executed, to sign it in token of its acceptance.

(d) Failure to identify the person executing the Vakalatnama or failure to certify that the pleader has satisfied himself about the due execution of the Vakalatnama.

(e) Failure to mention the address of the pleader for purpose of service (in particular in cases of outstation counsel).

(f) Where the Vakalatnama is executed by someone for self and on behalf of someone else, failure to mention the fact that it is being so executed. For example, when a father and the minor children are parties, invariably there is a single signature of the father alone in the Vakalatnama without any endorsement/statement that the signature is for 'self and as guardian of his minor children'. Similarly, where a firm and its partner, or a company and its Director, or a Trust and its trustee, or an organisation and its office-bearer, execute a Vakalatnama, invariably there will be only one signature without even an endorsement that the signature is both in his/her personal capacity and as the person authorized to sign on behalf of the corporate body/firm/ society/organisation.

(g) Where the Vakalatnama is executed by a power-of-attorney holder of a party, failure to disclose that it is being executed by an Attorney-holder and failure to annex a copy of the power of attorney;

(h) Where several persons sign a single vakalatnama, failure to affix the signatures seriatim, without mentioning their serial numbers or names in brackets. (Many a time it is not possible to know who have signed the Vakalatnama where the signatures are illegible scrawls);

(i) Pleaders engaged by a client, in turn, executing vakalatnamas in favour of other pleaders for appearing in the same matter or for tiling an appeal or revision. (It is not uncommon in some areas for mofussil lawyers to obtain signature of a litigant on a vakalatnama and come to the seat of the High Court, and engage a pleader for appearance in a higher court and execute a Vakalatnama in favour of such pleader).

We have referred to the above routine detects, as Registries/ Offices do not verify the Vakalatnamas with the care and caution they deserve. Such failure many a time leads to avoidable complications at later stages, as in the present case. The need to issue appropriate instructions to the Registries/Offices to properly check and verify the Vakalatnamas filed requires emphasis. Be that as it may."

12. In this case a vakalatnama has been filed purportedly by the petitioners in favour of Sri Purushuttam Roy Barman, Advocate, Sri Samarjit Bhattacharjee, Advocate, Sri Kausik Nath, Advocate and Sri Prodyut Maishan, Advocate. The petitioners namely Manik Debnath, Nanda Gopal Saha, Sujit Deb, Ranjan Roy, Ratan Banik, Asit Paul, Suman Das, Anup Kumar Roy, Babul Debnath and Sujan Das signed on the printed deed of power bearing the Bar Association's encryption No.HBA 2525 and all those advocates have put their signatures in acceptance but in the said form only the description of Manik Debnath, Nanda Gopal Saha, Ranjan Roy, Ratan Banik are available. The signatures of the other petitioners appear on the blank sheets and without any reference to the printed form, the pages No.58, 59, 60, 61, 62, 63 and 64 of the writ petition. How those are part of the deed of power (Vakalatnama)? Those are blanks sheets whereon the signatures of the petitioners are available and nothing more. Not even the signatures of the advocates are there. This Court is really taken aback how such vakalatnama has been accepted by the Registry. Those blank papers cannot be treated either as a part of

vakalatnama nor can those be related to the vakalatnama for their very nature. The Registry in future shall exercise due care and caution while accepting the vakalatnama in view of the law as enunciated by the apex court in ***Uday Shankar Triyar vs. Ram Kalewar Prasad Singh and Anr.***

With these observation and direction, this writ petition is disposed of. There shall be no order as to costs.

JUDGE

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