

HOW TO DRAFT A COMPLAINT AGAINST ILLEGAL EXCLUSION FROM SURVEY?

COMPLAINT AGAINST ILLEGAL EXCLUSION FROM SURVEY

(Name of TVC Chairperson)

Chairperson

(Zone)

(Municipal Corporation)

(Address of Municipal Corporation)

Delhi- (Pin Code...)

Date: (Date of Filing Complaint)

SUBJECT: Complaint against illegal exclusion from the survey process in
(Place of eviction) zone.

Respected Mr./Ms. (Name of the Chairman)

I write to you to bring to your kind notice the illegal exclusion of (Name of vendor/vendors)
(Place of Vending and Zone)
vending in _____ zone from the ongoing survey process.

I request you to consider the following in this regard:

1. The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 was enacted by the Parliament of India on 4th March 2014 and was notified by the Government of India on 1st May 2014; it provides for the protection of the rights of urban street vendors.

In the lines below, please briefly elaborate the facts and circumstances of the illegal exclusion from the survey process against which the complaint is made. Mention the name and number of vendors who were affected by it. (If there is a long list of vendors they can be referred collectively as Aggrieved Vendors. A list of all such affected vendors shall be attached as Annexure- to the Complaint.)

(Date since when the vendor started vending)

2. The Aggrieved Vendors have been vending at their designated spots since _____, i.e. much before the enactment of the Act (receipt/challan dated ____ attached as **Annexure (Annexure number)**).
3. Section 3(1) of the said Act as stated below obliges the Town Vending Committee (TVC) of the concerned zone to conduct a survey to identify all existing street vendors within the concerned area.

*“3. Survey of street vendors and protection from eviction or relocation.— (1) 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”.*

(emphasis supplied)

4. Furthermore, the Police in the concerned zone are indulging in arbitrary removal of the aggrieved vendors. This practice of forceful eviction before a survey is conducted is a violation of section 3(3) of the said Act. It states:

*“3. Survey of street vendors and protection from eviction or relocation- (3) 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**”.*

(emphasis supplied)

5. That the removal is also illegal since the TVC has completed no such survey in the abovementioned zone and hence is harassment as per section 27 of the Act.

“27. Prevention of harassment by police and other authorities-

*Notwithstanding anything contained in any other law for the time being in force, no street vendor who carries on the street vending activities in accordance with the terms and conditions of his certificate of vending **shall be prevented from exercising such rights by any person or police or any other authority exercising powers under any other law for the time being in force.**”.*

(emphasis supplied)

6. That the Secretary of Ministry of Housing and Urban Affairs (in a letter attached as Annexure 1) issued directions stating that,

*“The Street Vendors Act, 2014 seeks to empower the street vendors by making them participate in the administration of their affairs at the city level. The Act further directs to conduct a survey to identify the street vendors and issue them the Certificate of Vending/Identity Card. However, the noble objective of the Act gets disturbed time and again with the actions of the municipal and police officials as the vendors are subjected to frequent harassments, both physical and financial, which is against the provisions and spirit of this Central Act being administered through the States/UTs. In view of the spirit and provisions of the Act, as well as that of AtmaNirbhar Bharat, **I would urge you to kindly sensitize all the State DGPs that the street vendors are not subjected to any kind of harassment and eviction, unless mandated by law. Further, they may be advised that if any police personnel violate this mandate, a strict action may be initiated against them to discourage harassment of street vendors.**”*

(emphasis supplied)

(Date on which the
survey process in
Delhi commenced)

7. The aggrieved vendors/vendor have suffered immense financial losses as they are not allowed to sell even though they have all the required documentary support.
8. The survey process is ongoing in Delhi since _____ and will be concluded by 30 May 2021. Hence, the survey must begin in all TVC zones immediately or some ill-fated vendors might not get to be a part of this process and be unjustly deprived of their rights in the future.
9. The High Court of Delhi in a recent judgement of *Federation Lajpat Nagar Traders Association v. SDMC* dated April 6 2021, has also held that the survey process in Lajpat Nagar Market Area cannot be put on hold and must be continued without any interference. In pursuance of the same, the police must be ordered to not interfere.
10. The illegal exclusion of the aggrieved vendors/vendor has violated their fundamental right to practice any profession, or to carry on any occupation, trade or business, and to earn their livelihood under Articles 19 and 21 of the Constitution of India. The same is a violation of their right to equality under Article 14 of the Constitution of India.
11. In view of the above, I request you to take due cognizance of this complaint and take the following steps within seven days:
 - a. Direct the concerned officials to comply with the order pronounced by the Hon'ble Court;
 - b. Direct the concerned officials to begin the survey process immediately in **(Complainant's place of vending)** _____ zone;
 - c. Ensure no coercive action is taken against the aggrieved vendors/vendor and allow them to vend at _____ till a survey is conducted by the TVC; **(The same place of vending as above)**
 - d. Take appropriate disciplinary action against the erring officials; and

- e. Take any other action necessary to restore the fundamental and legal rights of the aggrieved vendors/vendor; failing which the aggrieved vendors/vendor would be constrained to take recourse to appropriate legal remedies including the initiation of proceedings for a violation of their fundamental rights before the appropriate writ court.

Yours sincerely

(Signature of Complainant)

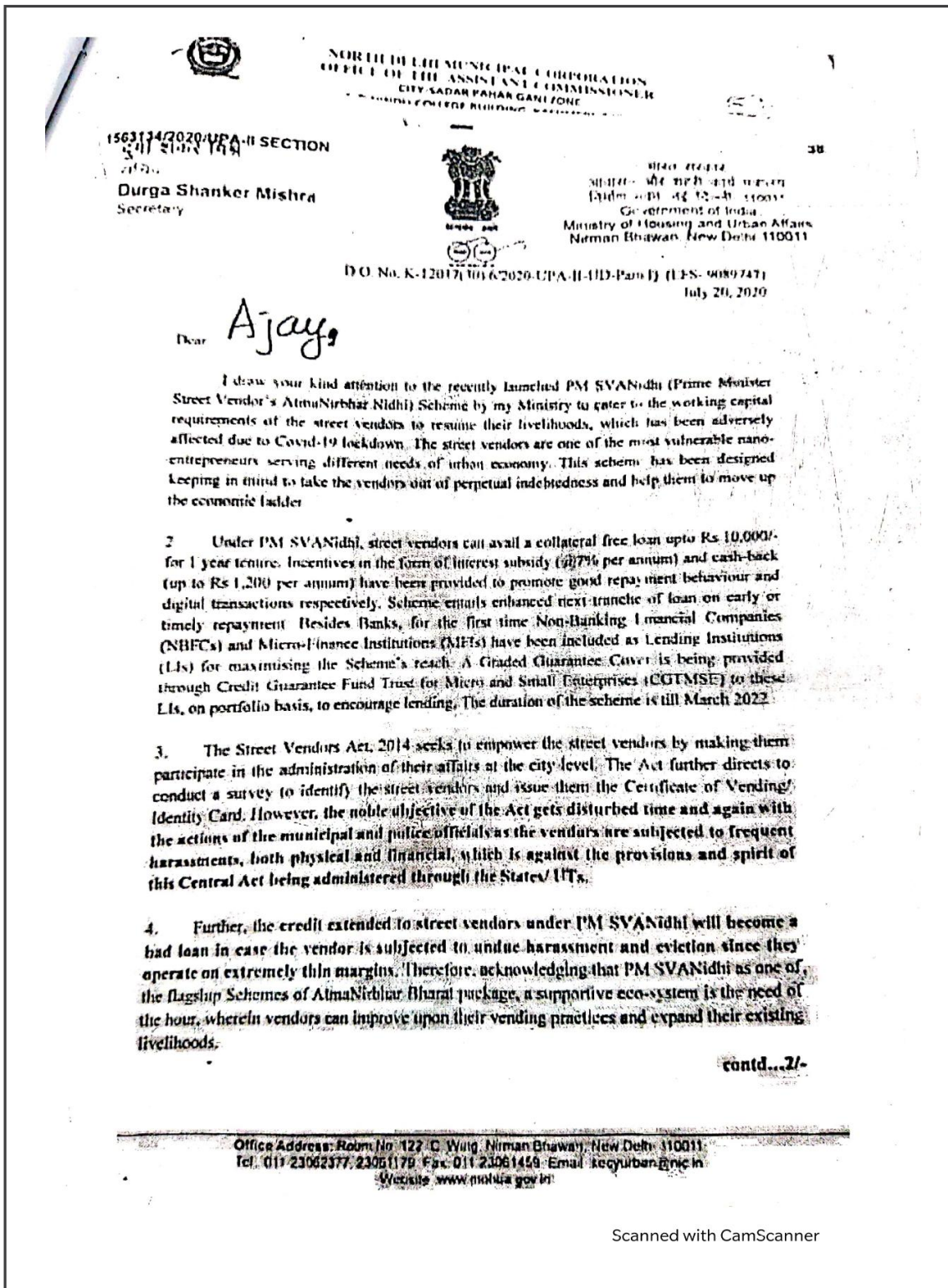
(Name)

(Address)

(Email/ Phone Number)

Copy to:

- 1) Shri Anil Baijal, Lt. Governor, 6, Raj Niwas Marg, Ludlow Castle, Civil Lines, New Delhi, Delhi- 110054
- 2) Shri Satyendra Jain, Minister, Urban Development Department, Government of NCT of Delhi, Delhi Secretariat I.P. Estate, New Delhi - 110 002
- 3) Commissioner of Police, Delhi, Jai Singh Road, New Delhi- 110001
- 4) Shri Vipin Kumar Garg, Deputy Secretary, Police Complaints Authority, Govt. of NCT of Delhi, 10th Floor, Chanderlok Building, Janpath, New Delhi-110001
- 5) Name of Commissioner, Commissioner, North Delhi/South Delhi/East Delhi Municipal Corporation, [Address of the Municipal Corporation]



NORTH DELHI MUNICIPAL CORPORATION
OFFICE OF THE ASSISTANT COMMISSIONER
CITY, SADAR PAKHAR GARHZONE
150, PUNJABI COLLEGE BUILDING, PUNJABI BAGH

1563134/2020/UPA-II SECTION
30/7/20

Durga Shanker Mishra
Secretary



भारत सरकार
शहरी विकास विभाग
आवास एवं शहरी सुविधा
विभाग
भारत सरकार
भारत
Ministry of Housing and Urban Affairs
Nirman Bhawan, New Delhi 110011

D.O. No. K-12017/006/2020/UPA-II-11D-Part I) (12S-9089747)
July 20, 2020

Dear *Ajay*,

I draw your kind attention to the recently launched PM SVANidhi (Prime Minister Street Vendor's Atma Nirbhar Nidhi) Scheme by my Ministry to cater to the working capital requirements of the street vendors to resume their livelihoods, which has been adversely affected due to Covid-19 lockdown. The street vendors are one of the most vulnerable nano-entrepreneurs serving different needs of urban economy. This scheme has been designed keeping in mind to take the vendors out of perpetual indebtedness and help them to move up the economic ladder.

2. Under PM SVANidhi, street vendors can avail a collateral free loan upto Rs. 10,000/- for 1 year tenure. Incentives in the form of interest subsidy (2.7% per annum) and cash-back (up to Rs. 1,200 per annum) have been provided to promote good repayment behaviour and digital transactions respectively. Scheme entails enhanced next tranche of loan on early or timely repayment. Besides Banks, for the first time Non-Banking Financial Companies (NBFCs) and Micro-Finance Institutions (MFIs) have been included as Lending Institutions (LIs) for maximising the Scheme's reach. A Graded Guarantee Cover is being provided through Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE) to these LIs, on portfolio basis, to encourage lending. The duration of the scheme is till March 2022.

3. The Street Vendors Act, 2014 seeks to empower the street vendors by making them participate in the administration of their affairs at the city level. The Act further directs to conduct a survey to identify the street vendors and issue them the Certificate of Vending/ Identity Card. However, the noble objective of the Act gets disturbed time and again with the actions of the municipal and police officials as the vendors are subjected to frequent harassments, both physical and financial, which is against the provisions and spirit of this Central Act being administered through the States/UTs.

4. Further, the credit extended to street vendors under PM SVANidhi will become a bad loan in case the vendor is subjected to undue harassment and eviction since they operate on extremely thin margins. Therefore, acknowledging that PM SVANidhi as one of the flagship Schemes of Atma Nirbhar Bharat package, a supportive eco-system is the need of the hour, wherein vendors can improve upon their vending practices and expand their existing livelihoods.

contd...2/-

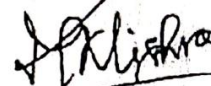
134/2020/UPA-II SECTION

-2-

5. In view of the spirit & provisions of the Street Vendors Act, 2014 as well as that of AtmaNirbhar Bharat, I would urge you to kindly sensitize all the State DCIPs that the street vendors and particularly the beneficiaries of PM SVANidhi Scheme are not subjected to any kind of harassment and eviction, unless mandated by law. Further, they may be advised that if any police personnel violates this mandate, a strict action may be initiated against them to discourage harassment of Street Vendors

Regards,

Yours Sincerely,



(Durga Shanker Mishra)

Shri Ajay Kumar Bhalla
Home Secretary,
Ministry of Home Affairs
North Block,
New Delhi.