

Major Breakthrough for Street Vendors

MANUSHI Hawker Market Project Gets Supreme Court Clearance

○ Madhu Kishwar

In issue number 124 of *MANUSHI*, we had published a report of a *Jan Sunwayi* (Public Hearing) of street vendors and hawkers organised by *MANUSHI* in May 2001. The subsequent campaign on behalf of this sector as well as the cycle rickshaw pullers and operators of Delhi led to the announcement of a new reformed policy framework for these two sectors by Prime Minister Atal Bihari Vajpayi. However, we faced tough resistance from both the political as well as the bureaucratic establishment in our attempts to get that policy implemented. We have kept our readers informed about some of *MANUSHI*'s follow up work on these two fronts. These are mere glimpses into a very complex battle. Once we have concrete results to show, we hope to tell the full story and the many important political lessons we have learnt in the process, including valuable insights into the nature and functioning of the Indian state. In the meantime, we try keeping *Manushi* friends informed about all major developments. In the last issue of *MANUSHI*, we had provided our readers with an update on our efforts on behalf of the cycle rickshaw sector, which has so far produced only marginal results. At the moment, that battle is being fought mainly through the courts. However, in the case of street vendors, we withdrew our petition from the Court and instead tried persuading the administration through a variety of means to look afresh at the issue. Fortunately, this has worked better than the legalistic route. This report provides an update on *MANUSHI*'s work on the vendors' front.

The main stated prejudice among city administrators and the city elite against the presence of street vendors and hawkers is that they clutter roads and pavements, bring squalor to the areas they squat in, and obstruct the smooth flow of pedestrian and other traffic. None of our arguments about the valuable economic services they provide to urban citizens were cutting much ice with city administrators for the last three years.

That is why *MANUSHI* offered to demonstrate through a concrete example that hawker markets could easily be organised in an orderly and aesthetic manner, provided some thought and care was put into the task. (See issue No. 130) We offered to undertake two pilot projects at Sewa Nagar and CGO Complex where we would develop

model markets for hawkers on the following lines.

- ➔ Improvement in the physical infrastructure, including beautification of pavements, boundary walls, local parks and greening of the area.
- ➔ Scientific garbage management and recycling through voluntary contributions from hawkers. A Cleaning Brigade is already handling this job for us in Sewa Nagar and each hawker is paying Rs.30 to 60 per month for this service.
- ➔ Building effective water harvesting structures before the coming monsoon.
- ➔ Improvement and beautification of *rehdís* or stalls put up by hawkers. The cost of this will be borne by each hawker.
- ➔ Commitment in writing from each hawker that he/she will not put up any unauthorised permanent structure on pavements or anywhere else in the market. The redesigned *rehdís* will provide protection from rain but will be mobile so they can be moved for daily cleaning of the market.
- ➔ Proper survey of the space available for placing hawkers and commitment to keep them within a consensually agreed upon *Sanyam Rekha* or Line of Self Discipline. This line of discipline will be a standard feature of whichever market we undertake to bring under *MANUSHI*'s management and supervision.
- ➔ Help in collecting municipal taxes for the MCD from each of our members on yearly basis.
- ➔ Responsibility for collecting electricity and water dues and preventing pilferage and theft of electricity, provided proper electricity and water meters are issued and we are allowed to organise these

services in an appropriate and aesthetic manner as an integral part of our overall architectural plan.

→ Involvement of residents from neighbouring colonies who come to shop in these markets, to collaborate with MANUSHI's efforts and get involved in enforcing a high level of self-discipline among both shoppers and sellers.

→ Get artists to add aesthetic appeal to the area by contributing their art work.

→ Provision of an open space for music, street theatre and other performances and maintain local parks as beauty spots.

→ Earmark and maintain proper parking spaces for vehicular traffic, including cycle rickshaws in a way that decongests the area and makes pedestrian shopping a pleasant experience.

Expectations from the MCD:

→ Monetary contribution for carrying out improvements in the civic infrastructure. This could either be by way of a matching grant as part of *bhagidari* or payment per unit cost of construction.

→ Proper maintenance of roads so that they match the improved environment.

→ Provision of legal water and electricity connections with proper meters so that vendors are not compelled to purchase these services illegally.

→ Working out an appropriate tax rate for each category of vendor and for each market according to its business potential.

→ Providing a sense of permanence to this *bhagidari* so that vendors can work with confidence and security.

→ Permitting MANUSHI to carry out similar improvement programmes in many more markets, if this experiment is executed successfully.

The Tide Turns

For long years, MANUSHI's diverse efforts to get the officialdom to be responsive to the needs of this vital sector of our economy were being stonewalled. Fortunately for us, Mr Rakesh Mehta took charge of the Municipal Corporation of Delhi (MCD) from Mr Aggarwal in 2002. Before him, the only officer who till then had given us a good response was Mr Negi. But as long as the MCD was headed by an officer averse to citizen's involvement, even those

transparency, citizens' involvement and reduced opportunities for bribery, every since he took charge of the MCD.

Reliable Litmus Test

Over the years, we have found a simple reliable litmus test for gauging the corruption level of any officer: an honest officer is invariably open to citizens' involvement and suggestions for improvement. By contrast, an officer who uses his office of power mainly to siphon off public funds and extort bribes will almost



A vendor selling steel utensils on the footpath at Sewa Nagar.

officers who wanted to lend support, could not be very effective. Mr. Mehta brought about new energy into administration which galvanised many other officers in his team, proving yet again that if the person on the top provides dynamic leadership and demonstrates his ability to institutionalise measures for transparency and citizens' engagement things start changing fast. He is an officer known for integrity, efficiency and commitment to improving the quality of administration in whichever job he is placed. He has introduced numerous important reforms in municipal functioning providing for

always be hostile to the idea of citizens' engagement in decision making processes and will thwart all attempts at bringing about improvements in the system of administration. The more obstructive and opaque a system, the higher the bribes that flow into the coffers of officials. Corrupt officers will do all they can to please their political and administrative bosses but make sure that the ordinary citizen has no power, no role to play even in domains where involvement of citizens is absolutely essential.

In sharp contrast to the attitude of Mr Rakesh Mehta, the dealings we had with the then NDMC Chairman, Mr Subhash Sharma, left us totally

Abha Gandhi

demoralised. When he was NDMC Chairman, he had let loose an unprecedented reign of terror on street vendors operating in areas under his charge such as Connaught Place.

NDMC Reign of Terror

During his tenure as NDMC Chairman in 2001 and 2002, vendors of Connaught Place and Sarojini Nagar markets (two major shopping centres under his charge), were targeted with daily “clearance operations”, involving daily confiscation of goods. These assaults became even more aggressive during festivals and New Year celebrations than during normal times. For example, during the winter festival season in 2001, all hawkers were driven out from the inner circle of Connaught Place while the New Delhi Traders Association (NDTA) took over the space for Diwali, Christmas and New Year celebrations. These are times when there is scope for better earnings for both hawkers and shopkeepers. But influential shop owners with the active support of NDMC staff ensured a period of mourning for these hawkers for the entire festival season during Sharma’s tenure by denying them even regular income, leave alone enhanced earnings. Every single day, goods of a certain number of vendors were confiscated while others ran helter skelter to look for places to hide their wares. The space in vast *verandahs* was given to MNCs like Pepsi, Coke and telecom firms who organised special promotional stalls with music and dance shows for youngsters. Thus, the NDMC ensured that while MNCs were given a high profile presence in the prime shopping area for festival periods, ordinary citizens —both traders and consumers—were forced to keep off.

Therefore, it came as no surprise when Subhash Sharma was recently

arrested and sent to jail for gross corruption.

To give our readers a glimpse of what these assaults mean in human terms, let me illustrate from the example of Rajkol aged about 45. She is among the two dozen women who sell seasonal fruits – mainly oranges or bananas – in a small basket in the inner circle of Connaught Place. She has been carrying on this trade since 1984 when she had migrated to Delhi with her husband since, they could not find work in their village near Jhansi.

Along with her husband, who works as a casual labourer, Rajkol supports five children (including two of her dead brother-in-law). She

A woman who puts in fourteen long hours of labour a day to sell nutritious fruit at reasonable prices as a means of earning a livelihood is treated literally as a criminal by our law makers and enforcers.

starts her day at 6 a.m. from her home near Ghaziabad and reaches Azadpur Mandi (wholesale market for fruits and vegetables) by 8 a.m. After purchasing a basket load of bananas, she reaches Connaught Place by 10-11 a.m. along with other fruit sellers from that area who share a tempo to bring fruit from the *mandi*. She is in Connaught Place till 7 pm and reaches home at 9 pm after a two-hour bus ride. Her daily transport expense is Rs. 40 (including Rs. 20 for carting the fruit). After fourteen hours of work (including commute time), she earns Rs. 50 on most days and up to Rs. 75 on better day — a sum less than statutory minimum wages. She and others like her are routinely

beaten out of the Connaught Place shopping area as and when NDMC inspectors decide to crack their whip. During the festival season of 2001, I found that, on an average, NDMC inspectors would take her basket of bananas away once a week – mostly without an official receipt. Not only would she lose that day’s earnings but also the capital investment of Rs 400 to 500.

Low-income consumers are also affected very adversely without the presence of such hawkers. Not every one of those who come to Connaught Place on business, can afford to eat in regular restaurants where a snack would cost anything from Rs. 20 to Rs. 150. Many find it more affordable, convenient and healthy to buy a couple of bananas and oranges as a cheap, quick, and nutritious meal. By driving out humble hawkers like Rajkol, municipal and police authorities are announcing to the world that the city belongs and caters only to the rich. The poor, whether as consumers or traders, have no business to exist.

Revealing Language

The language of the *challans* issued to these vendors is in itself significant and revealing. One of the many *challans*, issued to Rajkol reads as follows:

“Summon Banaam Apradhi - Dhara 68 of Penal Code 330 [summons for a criminal offender under section 68 of the Penal Code] (9/264) 225 of NDMC Act of 1994, before the Special Metropolitan Magistrate.”

Thus, a woman who puts in fourteen long hours of labour a day to sell nutritious fruit at reasonable prices as a means of earning a livelihood is treated literally as a criminal by our law makers and enforcers.

And those municipal inspectors and policemen who come and

humiliate her, kick her basket, abuse her in filthy language, take away her fruit, levy heavy fines on her and waste her precious time by dragging her to court as a legal offender, and on top of it demand bribes, are supposed to be the guardians of law and order in our country.

With law enforcers such as these, is it any surprise that more and more people despair of earning a living through honest means and many feel it is easier to earn a living through crime than honest work? It is a pathetic sight to see vendors hastily gather their goods and run in panic at the sight of a municipal van or a police vehicle, as small animals in a jungle take flight at the sight of hunters or carnivorous animals. Government agencies ought to be providing protection and supportive facilities for citizens rather than be seen as terror brigades and blood sucking parasites.

Genuine Misgivings

To begin with, Mr Mehta too was sceptical about our pleadings on behalf of street hawkers because he felt Delhi would be deluged with impoverished migrants from villages. For an administrator dealing with an already unmanageable city like Delhi, the prospect of many more homeless and impoverished people descending on Delhi in search of livelihood can be indeed daunting. Therefore, at one level, Mr Mehta also believes that government should not make Delhi such an attractive destination for the village poor that they feel they can have easy access to earning a livelihood in this city.

Testing Viability

However, once he was convinced that MANUSHI may have a viable proposal for bringing in greater civic order and cleanliness than prevails at the moment under the MCD jurisdiction, he adopted our project



Prototype of new *rehdi* designed for MANUSHI by Raghav Mehta with sturdy wheels and a lot of storage space.

with enthusiasm. His first challenge was to get the proposal passed by the Standing Council of the Municipal Corporation where he faced tremendous opposition from corporators of all political hues. Even when they reluctantly approved the model market proposal, both BJP and Congress corporators made common

It is a pathetic sight to see vendors hastily gather their goods and run in panic at the sight of a municipal van or a police vehicle, as small animals in a jungle take flight at the sight of hunters or carnivorous animals.

cause with one another in opposing the involvement of MANUSHI in developing and upgrading markets because they saw this as an erosion of their powers as elected representatives of those areas. Citizens' initiative without the political patronage of the local corporator, MLA or MP is seen as a serious threat to their power base and, therefore, resisted with determination.

Mr Mehta did not at that stage make an issue of who was to implement the scheme and simply got the project cleared through the Municipal Council.

Supreme Court's Clearance

However, since the existing system of restrictive *tehbazari*

licences has been worked out by the Supreme Court which had also appointed two different committees headed by Justice Chopra and Justice Thareja to examine the genuineness of the claims of those who applied for *tehbazari* under the Supreme Court devised scheme, Mr Mehta was told by his own officials that he would be committing “contempt of court” (an offence punishable with imprisonment of up to six months) if he allowed the two pilot projects to come through since that would amount to legalising the existence of vendors in these two markets in “defiance” of the limits set by the Supreme Court.

Therefore, his next challenge was to get the Supreme Court to put its stamp of approval on the model market project. He chose the best possible lawyers for the case and allowed MANUSHI to work closely with them. Mr Mukul Rohatagi was assisted by Sanjeev Sen in the case. Unlike the usual run of government lawyers, Mr Rohatagi and Mr Sen took on this case with conviction and enthusiasm. The petition they filed in the Supreme Court on behalf of the MCD is an impressive landmark in the history of governance in post-Independence India. (See extracts from the MCD petition on pages 8-11).

A New Landmark

Those who are familiar with the functioning of the government and of law courts know that a vast amount of litigation in India is the outcome of violation of people’s rights by various agencies of the government. Since government officers do not have to pay anything from their pockets for fighting court cases, they tend to harass people no end. Even when people reach courts to seek redressal, government lawyers usually prolong litigation to the maximum possible extent because the longer the case

drags on, the more money they make. Government agencies rarely accept their faults and even when courts rule in favour of citizens, the officials concerned do their best to thwart redressal measures.

However, in this case, the MCD petitioned the Court with the open admission that the existing municipal policy with regard to hawking and vending licences had been a failure in achieving the goal of restricting the number of street vendors in the city and lent itself to easy abuse. This admission required dexterous handling because the entire licensing system was devised and sealed by the Supreme Court in the

In this case, the MCD petitioned the Court with the open admission that the existing municipal policy with regard to hawking and vending licences had been a failure.

Gainda Ram vs MCD case. To tell the mighty Supreme Court that their system had proved a disaster is a risky affair since it could easily be interpreted as “contempt of court.” Also, for a Municipal Commissioner to admit in writing that municipal officials working under him are abusing the system for personal gain requires real courage and integrity that comes only if one has a clean track record.

Where Corrupt are Fearless

The supreme irony of this legal intervention should not be missed: officials who allow illegal vendors to proliferate in the city because they can then fleece them with impunity, need no permission from the Court, nor do they even fear being hauled up for contempt of court. However, an honest officer trying to improve

things is advised by his colleagues that the Court might send him to jail for his efforts unless he gets a clearance from the judges. This was not an empty threat. It is not beyond the corrupt among MCD officials to instigate a tout or a patronised vendor to file a contempt case in the Court, had Mr Mehta gone ahead without Supreme Court clearance.

Media Publicity Boomerangs

One of the most important and valuable lessons we learnt through this period is that as long as officials think you are pointing to government flaws to gain media publicity and corner international grants, even the honest among them remain sceptical or hostile to your efforts. If they get the impression that activists are only interested in making a media splash, and don’t really care about solving problems, there is little chance of getting them to be responsive. In order to make the slightest dent in the official psyche, you have to be able to convince them that you are not for publicity and that you don’t just find faults but have viable, concrete solutions to offer.

For example, in the early stages of our campaign, we made very little headway because the Lt. Governor of Delhi was extremely upset at the media coverage given to MANUSHI’s expose of street vendors’ plight in our cities. The Prime Minister’s new policy intervention came as an added irritant. Once we realised that criticism through newspapers was causing a big mental block, we voluntarily gave it in writing to the L.G. that we would refrain from press publicity as long as some channels of communication were kept open by the administration and we were allowed to prove the viability of our project through concrete demonstration.

Even so, it took two years of slow and patient lobbying to get this important development whereby

atleast some MCD officials themselves acknowledged the need for discarding the existing *tehbazari* system because of defects and avenues for corruption inherent in it.

Support of Politicians

However our previous experience had taught us that official orders could hardly be implemented in the absence of local political support. Corporators, MLAs and MPs are extremely wary about any “external” intervention involving the urban poor --- be they squatters, hawkers or rickshaw pullers, since they constitute a sizeable and pliable “vote-bank”.

Thus in order to blunt the hostility of the local Congress Corporator of Sewa Nagar, we decided to get in touch with the Delhi Pradesh Congress President, Subhash Sharma, whom I had known since my student union days, but had lost touch with all these years. Though he was well aware of MANUSHI’s criticism of various aspects of Congress politics, as soon as we asked for support of Congress Party corporators for our pilot project, his response was : “This is the first time my sister has asked me for anything. Take it that this will be done.” But he imposed one “condition” that we should undertake the project in his constituency of Kalkaji as well. Thereafter, things moved swiftly. Within three days, he arranged for me to meet the Chairman of the Standing Committee, Mr. Ram Babu Sharma, who had all this time serious misgivings about of our pilot project. But once he was told that Subhash Sharma had adopted it, Ram Babu also assumed a brotherly role.

We got a good glimpse into the working of our system when, during our first meeting, Ram Babu openly declared : “*Behenji*, we are very clear on this. When we don’t want to do something we know how to obstruct



Hawkers at CGO complex : chaotic survival despite repeated removals.

it, even if orders come from the Supreme Court or the Party High Command. At such times, there is no point citing rules and court orders to us. But when we want to do something, we put aside all rule books and just go ahead and do it. Now that we have accepted you as our sister and you have come to seek our help, we will make sure it works. But if you had by-passed us, we would have found any number of ways of thwarting your work.”

This is not a simple case of the triumph of *bhai biradarivad* over rules, laws and the whole concept of citizen rights because there is no real kinship tie between us. They would not have embraced me warmly as a sister if they had felt that I might use this work as a way of cultivating a political base. Moreover, as long as this project seemed to enjoy bureaucratic patronage, courtesy Rakesh Mehta, the political establishment would not let it take off. However, as soon as we showed willingness to acknowledge their role and authority, political leaders were willing to cooperate, provided we do not try building a parallel electoral base in their area.

Probably at this point it is worth noting that when the BJP was in power at Sewa Nagar before the Congress, we had approached their corporators as well. But despite all our efforts we failed to convince them into supporting the avowed policy of their very own Prime Minister.

An essential requirement for the success of this pilot project is to discipline and bring under control local police and municipal inspectors because it is they who encourage vendors to create disorder by allowing those who pay higher bribes to position themselves ahead of all others even if it means creating chaos, and obstructing traffic.

The real battle has begun now. Our success will depend on whether or not we can ensure strict civic discipline about sanitation and hawkers staying within allocated spaces (the *sanyam rekha*), including those who may try to break it by bribing the police or currying favour with the local corporator and finally whether we can ensure the continuity of such model markets through strengthening and institutionalising vendors’ own self regulatory mechanisms even without outside monitoring. □