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## MUNICIPAL CORPORATION OF GREATER MUMBAI

### CIRCULAR

Hon'ble Bombay High Court in Writ Petition No.224/10 & PIL 36/11, vide Order dt. 23.10.2015 had observed that -

"In our opinion a person who cooks or prepares food in the stall and sells it is not included in the definition of street vendor as the definition includes a person who is engaged in vending of articles, food items or a person who is offering services to general public. In fact all the directions issued by the Apex Court which we have considered earlier, provide that a hawker is not entitled to cook food at the place of hawking and sell it there. Thus, a street vendor can sell only ready food items, but he is not entitled to cook or made food items at the place of vending. Cooking of food by a street vendor at the place of vending is not at all contemplated by the Street Vendors Act. Thus, those Street Vendors who are cooking food at the place of vending will not be covered by the definition of the Street Vendors under the Street Vendors Act. Hence, such vendors are not entitled to the protection under the Street Vendors Act.

For preparation and cooking of food items for sale, licenses are required under various Statutes. Therefore, persons engaged in cooking and/or preparation of food items in a street, lane, side walk, footpath, pavement or any other public place either from a temporary built structure or by moving from place to place have not been included in the definition of Street Vendor under clause (1) of Section 2 and therefore, such person is not protected under the Street Vendors Act. Only those vendors who otherwise covered by the definition of Street Vendors who are only selling ready food items will be protected under the Sub Section (3) of Section 3 and Sub Section (1) of Section 12 of the Street Vendors Act. However, if the persons who are cooking or preparing food are otherwise holding licenses required by various statutes and are otherwise lawfully carrying out business will be protected provided their structures are lawful. But they will not be protected under the Street Vendors Act unless and until they give up the activity of cooking. Therefore, action will have to be initiated against the Street Vendors who are cooking food at the place of vending."

Taking into consideration the above directions of the Hon'ble High Court all the Asstt. Commissioners are hereby directed as under:-

1. Hon'ble High Court had clarified that Street Vendor engaged in cooking food on roads/foctpaths are not protected by The Street Vendors (Protection of Livelihood & Regulation of Street Vending) Act, 2014. As per the provisions of Section 61(o), M.M.C.Act, 1888, it is the mandatory duty of MCGM to clear all impediments on road and footpaths as well as Secion 313, empowers MCGM to remove impediments/encroachments on footpaths without issuing any notice. Notice u/s. 314 of MMC Act, 1888 is issued only for permanent structures encroached on footpaths and roads. No notice is given to the unauthorized street vendor or any person who stack loose materials on roads or footpaths. Taking into consideration the direction of the Hon'ble High Court, it is hereby directed to all Asstt. Commissioners that cooking of food shall not be allowed on road/foctpath. The cooking of food within the private places either from a temporary built structure or by moving from place to place, which do not have requisite permissions from the Competent Authority shall be removed.

2. All the Asstt. Commissioners should survey and identify the places where cooking on street is done and constitute special squads comprising Licence deptt., Maintenance deptt. & Health deptt. in order to evict them in a time bound manner.

3. It is observed that the eateries on footpaths and roads crop up during evening and late night hours. All the Asstt. Commissioners are hereby directed to arrange additional manpower in case there is shortfall of MCGM manpower for these special drives.
4. All the Asstt. Commissioners are hereby directed to file caveat in appropriate Court of Law before any proposed eviction and shall also take prompt steps to contest the proceedings in case matter is challenged in Court of Law.
5. The Asstt. Commissioners concern shall also keep close watch on the pending Court cases. The Law Officer may establish appropriate mechanism for tacking such pending cases.
6. All the Asstt. Commissioners may take help of local police station or police available with R.E. Department in case need for police protection is felt.
7. All Asstt. Commissioners are hereby directed to seize all the food items and cooking apparatus. In case any domestic /commercial LPG (Liquefied Petroleum Gas Cylinders) are detected, the same shall be seized. The Cylinder Nos. and Company Name as well as the place from where it was seized shall be noted properly. After taking proper photographs, the same shall be reported to the concerned field officer of the Petroleum Companies of Govt. of India such as IOCL, BPCL & HPCL and request them to file Criminal case as per the provisions of Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order 2000 and Essential Commodities Act, 1950. The seized LPG Cylinders may be handed over to the Oil Company concerned as provisions of LPG Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order 2000.

Sd/-07.12.15      Sd/-07.12.15      Sd/-09.12.15      Sd/-19.12.15  
 Supdt. of Liceces      D.M.C.(H.R.)      A.M.C.(City)      Municipal Commissioner

**Office of the Supdt. of Licences**

Dadar Pumping Station, 6<sup>th</sup> floor, Sewerage Operation Administrative Offices  
 Bldg.,249, Senapati Bapat Marg Dadar (W.), Mumbai - 400 028

Section : Encroachment Removal  
 : MGC/F/8572,dt. 22.12.2015  
 : SL/ 27425/LEA,dt.01.01.2016

**Circular No. SL/ 13 of 2015-16**

**Date : 04.01.2016**

**C.C. :** P.S. to M.C. / P.S. to A.M.C.( ) /A.O. to D.M.C. ( )

For information please.

Asstt. Commissioner \_\_\_\_\_ Ward / Sr. Insp. (Lic.) \_\_\_\_\_ Ward /  
 Sr. Insp. (Ench.) \_\_\_\_\_ Ward /H.C.(Revenue) \_\_\_\_\_ Ward

For information and necessary action please.

Sd/-4.1.2016  
**Supdt. of Licences**