Date: ----------

/ ADDL MC city/ illegal hawkers without permission on road & footpath / action against all concerned ------ ward officials

To,

1. Addl MC city
2. DMC special & Encroachment)
3. DMC zone-1
4. Sr. Suptd License department

Sub: illegal hawkers on road and footpath from ---------- to ----------- without having any license and permissions.

Reg:

1. Action to be taken against the concerned BMC officers for not removing the illegal hawkers / enrichment / encroachment on road / footpath/ traffic island
2. Inspite of no license and permissions are issued to such business on the busies road of Mumbai the concerned staff has failed to take any preventive and consequential actions to clear the road and footpath of encroachment and obstruction.
3. In the above circumstances, the BMC officers have been violating every provision of law, misusing and abusing their position as public servant and thereby
4. Creating obstruction and encroachment on road and footpath,
5. Endangering life and limbs of citizens, pedestrians and motorists
6. National resources are lost due time consumed for travelling. Fuel consumption increases. Pollution increases due to emission
7. Creating unhygienic conditions for the total surrounding
8. Invitation to epidemics and diseases cause by unhygienic condition
9. It promotes illegal business and wrongful loss of revenue to BMC
10. It destroys the legal business as they have extra ordinary over-head expenses and BMC is ever ready to raise license fees and penalty up to 100 % for delayed payment ( no justification given for 100% penalty, thereafter 100% penalty on 100% penalty already charged.)
11. **Role and duties of BMC ward / DMC encroachment / Addl MC city**
12. **Strict compliance of circular dt. 14.12.99 that no temporary and permanent structure shall be permitted on road and footpath as well traffic islands.**
13. **If the offenders commits offence for third time BMC shall act as per provisions of section 516 AAA, MMC act**
14. **MRTP section 52 & 53 after 2nd action to remove the encroachment / obstruction/ illegal change of user.**
15. **Willfully avoiding night raids to demolish the illegal structures / crush the goods kept on road footpath and traffic islands as per SC direction that no goods / obstruction shall be allowed between 9 pm to 7 am.**
16. **Hawkers (having license only) are not allowed under any circumstances to**
17. **keep table on road-footpath**
18. **have roof over head**
19. **area used shall be 3 meters only**
20. **shall disclose the identity card on his shoulder**
21. **the space cannot be given on rent.**
22. **shall not keep any materials on road beyond 3 meters /**
23. **no luxury items shall be permitted/ only daily use items permitted.**
24. **No food preparations shall be permitted**
25. **Footpath shall be minimum 8 meters and not below.**
26. **Only on one side of footpath of the road and not on both footpaths.**
27. Supreme Court order dt. 11.4.22 in SLP 5684 of 2022 that no goods and materials shall be kept on road and footpath from evening overnight.
28. Bombay High Court W.P. ( L) 23131 of 2022 order dt. 14.11.22
29. Bombay High Court PIL 116 of 2014 order dt. 25.7.2018
30. **Bombay High Court judgement dt. 3.5.2019 in PIL 78 of 2013:** police shall be responsible to keep public spaces free from encroachment
31. **Police commissioner circular dt. 19.6.19:** police shall be responsible to keep public spaces free from encroachment as directed in para 5 of the order dt. 3.5.2019

**“we direct the Commissioner of police, Mumbai to issue office order directing all BEAT MARSHALLs, to keep an eye on the pavements in the area of the beat, and if any encroachment is noted, information be immediately given for police assistance so that the encroacher is not able to re-erect temporary structure erected by the encroachers on pavement and road and shall be demolished.”**

1. Addl MC City you are HOD of DMC zone-------. DMC special you are HOD of matters pertaining to encroachment and illegal construction. Hence you are responsible to take action against the illegal acts as well as failure to discharge duty by officers of B ward. Your office has to maintain complaint register as per circular the following circulars and comply with the conditions mentioned in the said circular. Your office is duty bound to take action and verify the compliance of every law namely
	1. **MMC DMC-RE Circular dt. 15.3.2012**: Existing unauthorized structures
		1. **Para B1**: Notice u/s 351 MMC act within 7 days to produce documents of authorization.
		2. **Para B1**: If no documents are produced 7 days’ notice to demolish the illegal / unauthorized structure
		3. **Para C1**: Prosecution u/s 475A of MMC act
		4. **Para C2**: register of unauthorized constructions maintained.
	2. **MMC DMC RE circular dt.12.4.2013**:

**Para (ii)** : visit the site and get photos.

Designated officer shall monitor the detection work carried out.

Visit the site himself and note all details and dimensions

Photograph the unauthorized work from different angle with time date and names of the responsible persons

**Para iii:** If the work carried out is authorized intimation be sent to complainant accordingly.

**paraV;** a register shall be maintained i. detection, ii. Notice. Iii. Court injunction. Iv. Demolition as permanent records and maintained in respective wards.

**Para 10**: Asst Comm ward and zonal DMC responsible as they are supervisory authorities

**Para 11:** Register Grievances redressal committee

* 1. **MMC circular 29.10.16: D.O.,** Asst Comm and DMC responsible for protection of illegal construction.

Asst Commissioner shall monitor the action taken against illegal construction and submit monthly report to DMC

AC shall bring to knowledge of DMC the failure to discharge duty by D.O. recommending action against DO.

DMC shall recommend action against Ass Comm if he fails to discharge duty

 DMC shall be responsible for supervision of action taken against unauthorized construction

* 1. **GAD circular dt. 18.1.2013:**
* **Condition 3**: complaint register shall be maintained
* **Condition 4:** HOD shall inspect whether action has been taken in each matter and prepare report
* **Condition 5**: Report prepared after inspection shall be submitted to HOD every month.
* **Condition 6**: disciplinary action for failure to discharge duty
	1. **CHE circular dt. 15.1.2011** How the Designated officers, Asst Com/ DMC fail to act after issuance of notice u/s 53(1) MRTP.

**In the above circumstances, I request your office to take stringent action against the officer of B ward and intimate me accordingly. You being HOD, cannot just forward the complaints. You are duty bound to call for report within specific time and take action against the illegalities and / or the officers who have failed to discharge duty.**

**If you officers fail to take action, your office shall be liable for criminal prosecution u/s 166, 167, 217, 218, 268, 269, 270, 431, IPC amongst all other sections and provisions of law.**