

Setting Up Shop in Noida

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Introduction

Poverty and unemployment have become topics of living room conversation. Each year the budget declares schemes and grants funds to ensure employment to the masses. The success of this is known to all. The 1991 liberalisation drive was surely a step to abolish the license-permit Raj, but the benefits of this are still to reach the masses.

Free enterprise and self employment are ways to climb the economic ladder but the hurdles are too many for people to take the risk. Shops represent one of the easiest entry-level professions for the poor and the middle-class. Yet, shop enterprise and its attendant benefits to the poor and unemployed have been undermined. The government's attitude has been one of controlling rather than encouraging.

Shop: The dictionary explains it as a permanent structure used for retail sale of goods or services; workshop or place of manufacture which is a source of self-employment and entrepreneurship.

This paper studies the various procedures and licenses needed to set up a shop, the time and cost involved in doing it legally and/ or by giving bribes. It also attempts to trace the running process as well as costs involved in renewing licenses. It tries to determine the degree of awareness regarding procedures and extent to which they are followed by the shopkeepers as well as the government officials. In short, we try to take a sneak peek to understand what happens behind the scenes.

We will be studying the opening of a shop as a source of livelihood and thus essentially limiting our paper to shops which need a small investment. These would include the neighbourhood grocery store, a PCO, a *dhaba*, car repair and barber shops. The paper confines itself to setting up of shops in NOIDA only.

Our aim is to find out the operative forces involved in setting up and running of a shop in NOIDA. Taking an example of an average neighbourhood grocer, we study the process of setting up shop in NOIDA. Every shop comes under the legal framework of the UP Shop and Establishment Act and has to deal with the various government departments; labour, health, weights and measures and sales tax. The other players involved are the electricity and water supply department and the companies from where the stock of goods is bought. Our emphasis will be on the former group and the role played by them.

General overview

NOIDA is a perfect example of the coexistence of rural and urban settlement. It has some of the most posh sectors which could put Delhi to shame. Sector 18 has all the ingredients of a 'happening' place. It has the latest malls, theatres and more restaurants than your stomach can digest.

Right opposite this sector is the Atta village and a ten minute drive takes you to *Chalera* village. This could be any of the small villages you cross on a highway. It is characterised by small agricultural land holdings and many small shops, mainly providing daily need items. It is unplanned and comes under *lal dora* land.

NOIDA is an upcoming town and it has a master plan, to make it a dream city by 2020. It clearly demarcates sectors for commercial, residential and industrial use. The master plan is attached as Annexure 1. The demarcation of the areas in NOIDA under the aforementioned three heads can clearly be seen. It also lays out future plans for further expansion and

development. Surprisingly, the master plan, which is a public document, is not accessible to the public!

In the case of franchise shops like Bata etc, government related procedures and licenses are handled by the company. The franchise shop is managed by a manager who is paid a monthly salary as well as a commission on the sales. The manager's only duty is to increase sales and he is thus, not aware of any regulations.

Now moving on to the small, owner-run shops that manage all the registrations and licenses themselves. As a general finding, no shopkeeper was aware about the various licenses and regulations needed till they actually opened shop. Although all government departments claim that registrations and licenses were the shopkeeper's duty as well as responsibility, yet no initiative is taken by the shopkeeper to comply with the rules and regulation. The degree of awareness was so low that when we asked the shopkeepers about the various official departments they should rightly be dealing with, we were met with reactions which varied from the very suspicious to the completely blank expression.

We shall now study in detail the role of each of the departments a shop has to deal with.

Sales tax department

Every shop which brings in goods from outside NOIDA has to register with this department. The department then gives the shop a sales tax number, which has to be printed on the bill of the shop. In NOIDA, there is no separate trade license; it is the same as a sales tax number.

Procedure

- Rs 1000 has to be deposited in the bank by the shopkeeper as a non refundable deposit.
- Rs 200 is the fees for the first year.
- The agreement is signed on a Rs1000 +200 stamp paper.
- Rs 50 is the processing charge.

Therefore, total amount spent for the first year is Rs 1250

- Along with the fees, they are required to submit a proof of residence (ration card, voters' ID, passport); and
- In the case of a shop owner, proof of purchase of property and the registration papers have to be attached.

After the application has been sent to the department, an officer goes to verify the given information. If all conditions are satisfied then the sales tax number is granted.

Exception

A shop does not need a sales tax number if

- No goods are purchased from outside NOIDA and sales are less than Rs 2,00,000 per year. OR
- In case of non taxable items such as cattle feed, salt and unstitched cloth, no sales tax is charged.

Follow up

The yearly fee for renewal is Rs 100.

The sales tax department conducts regular surveys to make sure all the shops have registered themselves. These surveys are conducted by the staff of the department. They

essentially pertain to checking if all the bills of a shop are in order and if required, they ensure that the concerned shop gets registered with the sales tax department. Mobile checks are also conducted to fine anyone caught bringing in goods from outside NOIDA without a sales tax number.

FORM 31 is the declaration form which states the value and quantity of goods being transacted. If anyone is caught bringing in goods from outside NOIDA without Form 31, then 40% of the value of goods being transacted is the penalty.

If goods are bought and sold within NOIDA, then the bill has to be presented to the officers conducting mobile checks. The penalty is the same as above.

Administrative structure

There are two categories of registrations:

AC- for small traders; and

DC- for large traders

For each of the above categories, there are separate offices. In NOIDA there are 5 AC and 12 DC offices. Each office has to ensure that the shops in their area are registered. AC 1 which covers Sector 18, a wholly commercial area, has 1650 registered shops.

Ground reality

- According to Mr Chauhan of the sales tax department, 99.9% of the small investment stores such as a grocery stores are not registered with the sales tax department. They have a misconception that a sales tax number is needed only if goods have to be brought from outside NOIDA.
- Shopkeepers openly admitted to the fact that most of them brought in goods from Delhi illegally.

Now moving on to the next department a shop has to deal with—the health department.

Health department

The health department is in charge of looking into the hygiene and cleanliness of the shop. It has an even more important role if the shop is selling food items. Food items could be packaged and branded, like Britannia biscuits, or it could be a shop manufacturing food, for example a *mithai* shop. The health department, over and above checking if the food is prepared and sold hygienically, checks water purity and adulterations. Each and every shop has to be registered with the health department, especially if selling food items (even grocery stores).

Procedure

A formal application form has to be filled by the shopkeeper giving details of the goods sold or service provided. The inspectors verify the information and the license is granted. License fee is nominal because it has not been changed for decades. It varies from Rs 20-80, depending on the type of shop, retail or wholesale. It officially takes fifteen to twenty days from the date of filing papers to get a license.

Follow up

There are periodic checks conducted by the inspectors. According to the department, on an average, each shop is inspected once in every two months. Samples are also collected to be tested for purity. These samples are sent to the Uttar Pradesh government laboratory in Lucknow.

Penalty

The penalty depends on the extent of crime. If caught for adulteration of a food item, then the matter is taken to court.

Administrative structure

The district magistrate (DM) has all the power relating to law and order in his district. All departments including sales tax, health and labour come under his purview.

On the other hand, the NOIDA authority is an autonomous body which primarily restricts its tasks to acquisition, development, sale and maintenance of land. Although this authority too has a health department; it is mainly concerned with cleaning roads, gutters and maintaining general hygiene, sanitation and cleanliness in NOIDA.

The health department under the DM is mainly concerned with the shops. Any complaints regarding food standards are forwarded to this department.

Gautam Budh Nagar district is divided into four regions for administrative simplicity:

- 1) Dadri
- 2) Jhewar
- 3) Dhankhor
- 4) Bishra

There is one food inspector in each of these zones. Supervising these food inspectors is the chief food inspector. They directly report to the chief medical officer (CMO, health) whose office is at the Civil Hospital, Sector 30. All inspections are directly done by the food inspector and they have no one assisting them in this task.

Ground Reality

The ground reality in the case of this department truly depicts a very different picture altogether.

According to rules, all shops should be registered especially those selling food items (including packed food). According to our survey conducted in grocery stores in residential sectors, majority of the shopkeepers did not even know of the existence of the health department. We were shooed off from most shops because they thought we were from the department. Most grocers have a misconception that registration with the health department is only necessary if the shop is manufacturing food.

Now, a reality check of the department. One of the four inspectors working under the chief food inspector is the only food inspector for the whole of NOIDA and he apparently reaches back to every shop once in every two months. Surely he must be 'super human'! Also no shop has ever come across a food inspector, also implying he is an 'invisible super human'!

When we asked the department for a list of rules, for which the inspections are carried out, it seemed quite ridiculous to them. Quoting an officer at the department, "We all know what is hygienic and clean, why do we need a list of rules to tell us that?" Maybe they do not need a list of rules but it would surely do us good if we knew what is allowed and what is not. For example, sale of cut fruits is not allowed; not that it is mentioned anywhere, we ought to know it!

Another howler: the health department is not concerned with shops selling meat. For the license for meat shops and the related rules (if any) we are supposed to contact the

veterinary department. And we thought the veterinary department was for the welfare of animals! Para does not seem to convey the point!

There are two health departments in NOIDA, each referring to the other as 'useless'. One of them is under the DM and the other one comes under the jurisdiction of the NOIDA authority. Their duties and responsibilities are overlapping to a certain extent. It took us four meetings with the respective departments to figure out the real picture. Both play the blame game and it is for you to decide which one is more 'useless'!

Another department with which a shopkeeper has to deal is the labour department.

Labour department

The labour department, located in Sector 3, NOIDA, has to ensure that the workers employed by the shops are not exploited and are thus being given what is their right. In addition to this, they are in charge of the closing and opening time of the shop.

Every shop has to register with the labour department. The department deals with all types of shops, whether small or big.

Procedure

A form has to be filled and submitted along with the following fees:

Fee structure- Rs 200 non commercial area without workers
+Rs 1000 " " " with workers (up to 5)

Rs 400 commercial area without workers
+Rs 1500 " " with workers (up to 5)

The license (attached) is then granted. A shop can open without the license but needs to register within three months of opening.

Renewal and penalty

The license has to be renewed every five years. The charges for renewal would be the fee prevailing in that particular year.

Duties and responsibilities

Their main responsibility is to ensure that there is no exploitation of the employees; the minimum wage level is met by all employers. Apart from this, the opening and closing time of the shop comes under their jurisdiction. The official timings are:

Opening time	Closing time	Season
9 am	8pm	summer
9:30am	7:30pm	winter

The timings have to be adhered to irrespective of whether the shop is in a commercial area or non commercial area.

There are eleven inspectors in this department who go from shop to shop and check for:

- minimum wage level
- timings
- registration certificate (with the labour department)

The penalty amount varies from Rs 50- 500. It depends on the CGM (Chief General Manager) to whom the case is forwarded.

Ground reality

The checks carried out by the inspectors have been banned by the UP government since 28th August 2003. Nobody clearly knows the reason behind the ban. From the information we gathered, the ban was imposed because the inspections were apparently unjust to the shopkeepers/employers and harassed them.

Although the checks have been banned, the eleven inspectors still hold their post but obviously have no work. On questioning, they argued that the ban was not permanent and could be repealed any day as it was an internal order.

As mentioned earlier, according to the department, every shop has to register with them and they carried out checks to ensure the same. The ground reality is totally different. NO shop we visited was registered with the department and the inspector had never come to their shops, even in the past. The misconception again was that the shop-keepers thought that the registration was necessary only if they had employees.

Shop timings are not adhered to at all and neither is it forced by the departments as all checks have been banned. Therefore the shop can open for as long as the owner considers profitable and convenient.

Perhaps the only rule known by all is that the shops are not allowed to open in houses, in residential areas. Concrete market complexes have been constructed in every sector for daily needs shop such as grocery stores. The NOIDA authorities are very strict regarding this rule. Yet we did find two shops in the residential area of Sector 32 and many shops in the garages of the Sector 29 flats.

Property registration

Another tedious procedure a shop owner has to go through is property registration. If any property (commercial or residential) is bought or sold, it has to be registered with the NOIDA authority's property registration office in Sector 16. This is the highest revenue earner for the authority, which is not a municipality and hence it gets no funds from the government. It has to make sure that its expenditure is equal to revenue and it is thus more efficient than the departments under the district magistrate.

Formula for evaluating property value

Cost of land (area wise) + common area at 16.67% (staircase and balcony) of total area.
Rent for common area is Rs 15,000 and for the whole area is Rs 30,000.

Total is added up and 8% of value of property is calculated.

For example

If total area=20 sq.m and value of land=1 lac/sq.m

Common area=20*16.67%=3.33sq.m

Rent total area=20*30,000=Rs 6,00,000

Rent common area=3.33*15,000=Rs 49950

Therefore, total value=20 lakh+6 lakh+49950= 26,49,950.

Registration fees=26,49,950*8%=2,12,000(approx)

Due to the high registration fees, people try to evade it but cannot totally avoid this procedure, for property cannot be further sold without the property registration papers.

Weights and measure department

This department too comes under the District Magistrate. It oversees the accuracy of the weighing and measuring apparatus, whether electric or manual and whether used by industries, shops or jewelers.

Functioning

The weights and measure department office is in Sector 27. They have distributed their workload to private contractors. There are 17 private contractors who were selected by issuing tenders. These contractors are responsible for yearly checks and servicing of the scales. The department gives all 17 contractors a list of the shops in Gautam Budh Nagar. Since there is open competition between the contractors on who reaches a shop first, checks actually end up happening, unlike all the other departments. The contractor goes to the shop and brings the scale to his factory, where he services it, checks it and writes a reference number. The number tells the next due date and verifies that the scale is of the required standard. This number, along with the bill, is used for future reference if the inspector comes to check or the other contractors come to service. These contractors are not authorised to penalise the violators, it comes under the purview of the department inspectors.

Charges vary according to the type of scale. According to the department the charges for an average counter scale, which is most commonly used, are:

Below 1 kg: Rs 3

1 kg weight: Rs 10

1- 10 kg weights: Rs 20

10-30 kg weights: Rs 30

The above amount is what is charged by the department. The private contractors would, on an average, charge Rs 250 for the same scale, out of which a nominal amount is paid to the department and the remainder is the charges for servicing.

The department has two inspectors for the entire Gautam Budh Nagar. Their duty is to conduct regular checks to make sure that the number is written on the scale by the contractor, within the last year. There is a rule which states that each of the inspectors have to charge a minimum of 50 *challans* in a month.

Penalty

According to the department, it is the responsibility of the shopkeeper to get the weights checked yearly. If scales are found without the reference number, penalty has to be paid. The case is forwarded to the CGM who decides the penalty amount, depending on the type of scale.

Ground reality

To our surprise, this department is the most efficient. We would attribute this to the private contractors and the open competition between them. Unlike all the other departments, at least the shopkeepers have heard of this department.

Though something not too surprising: the shop opposite the department office is not registered! Its scales and weights have never been checked! All for the free Pepsi he gives the officials once in a while.

Yet another unique way of deciding the penalty amount is by the behaviour and nature of the shopkeeper! As an officer himself said that if the shopkeeper 'genuinely forgot' and is 'sorry', then they do not penalise him. On the other hand, if he is arrogant, then they take the case straight to the CGM. The inspectors penalise 50 shops legally per month and the rest goes to their own pocket, as said by one of the department officials.

Specific case studies have been included to illustrate the shopkeeper's perspective:

Sonu Store, general grocer, Sector 26

Sonu had set up the shop 22 years ago. He had directly bought the shop from the NOIDA authority. The shop is not registered with the health, labour or sales tax department. According to him, the food inspector comes every month.

General grocer, Sector 29

The shop is in the garage of the Sector 29 flats. Rs 6,000 is paid as rent. The owner is a college graduate. The shop is not registered with the labour, sales tax or health department. According to the owner, the health license is valid from April to March and the yearly fee is Rs 500- 1000. Contrary to this information, the fee in reality is Rs 20–80 for a one-time license and no yearly charges. Apparently the health department inspector comes to this shop once in every two months to check food items, especially oil. The counter scales were marked and verified by the private contractor.

Grocery store, Sector 19

The shop is 7 feet by 11 feet in the market place constructed in the residential area. The owner is a Commerce graduate and has a degree in law, too. He bought the shop directly from the NOIDA authority through a tender. The amount varies from 25–30 lac but it can be paid in installments.

The shop was registered with the labour department and according to the owner, to pay the yearly fee of Rs 200, a bribe of Rs 500 had to be given. He also gives a bribe of Rs 100–500 per year to the health department.

Would the shopkeepers be affected if the Gautam Budh Nagar district were to be merged with Ghaziabad? From the point of view of this paper, we would suggest that it should not be merged with Ghaziabad as it would affect the system adversely. It is a known fact that NOIDA has its own distinctive features which set it apart from Ghaziabad as well as the rest of Gautam Budh Nagar. The rate of development and urbanisation is much faster than that of the adjoining areas and Ghaziabad district. The NOIDA authority, which is in charge of acquisition, development and sale of land is an efficient body. It is still trying to gain autonomous status; the bill is yet to be passed. Since their expenditure has to be met through their revenues; they develop land and sell it to the builders and public. On the other hand the departments coming under the district magistrate are in a dismal condition. Efficiency and awareness of rules and regulations seem to be unheard terms to these departments. If merged with Ghaziabad district, the area would be too large to have good governance and inefficiencies would only increase.

In conclusion, we can surely say that licenses, registrations and rules do not hinder the setting up of a shop in NOIDA. This is simply because they are not implemented and followed! They just provide ample leeway for corruption and bribery in the name of rules and regulations. An inspector can come as and when he feels, and uses the system to his

advantage to extort bribes and harass. Thus the only people who benefit from the licenses are the inspectors. Since the implementation is so poor and there are very few inspectors in NOIDA, the shopkeepers are in a win-win situation.

The awareness regarding rules and regulations is very low. The shopkeepers cannot be blamed for this as the officials themselves are very vague and written documents stating the rule are a scarce resource in NOIDA. There is no access to documents, orders and even the master plan! The Shop and Establishment Act of UP could not even be found at the high court! All the shopkeepers were apprehensive about divulging information and were on guard when we tried digging for some details.

Every one learns the nuances of the trade; so do the shopkeepers. It is an art to handle the inspectors, pay bribes and get the various licenses or simply get away without complying with any rules and regulations. Both ways are open to the shopkeeper and it depends on which one he chooses. Thus the umpteen licenses and registrations are of no use but just provide scope for unaccountable_illegalities.

Most importantly, the aim and purpose behind the various registrations and licenses is incomprehensible. The license is granted to every shopkeeper provided he complies with the required rules and regulations or is ready to shelve out the money under the table. The departments are in charge of all the shops whether registered or unregistered.

Thus the registrations and licenses, from being a tool to control and standardise, have been reduced to a mere formality.