

## FOREIGN DIRECT INVESTMENT IN INDIAN RETAIL: A CLOSE LOOK

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### Introduction

It can be argued that nothing new settles easily into a set pattern of life till the physical manifestation of its beneficial output becomes an accepted practice among the mass. India we believe is no exception to it. One such issue which has drawn a lot of debate as well as accentuated wide hue and cry, cutting across various sections of the society is Foreign Direct Investment (hereinafter FDI) in retail sector. FDI in Indian retail is the outcome of the reform initiative which had been implemented way back in 1991, when India embraced liberalization and globalization as part of its economic strategy for the free flow of trade and business in Indian market for a global transaction. India's huge population and rising consumer taste may be a possible reason for the rising global focus in floating business in a market of ample avenues. The Prime Minister of India, Dr. Manmohan Singh views FDI in Indian retail as "the Second Reform" and describes reform as an ongoing process.<sup>1</sup> However the veteran social activist and champion leader of "India Against Corruption", Shri. Anna Hazare believes that FDI in Indian retail will make Indians slaves in their own country.<sup>2</sup> The two contrasting and counter attacking views if taken as two facets of FDI in Indian retail, then a step in this regard in resolving this issue is the practical necessity of time. Up till now the matter on FDI in Indian retail has extended a long debate in the electronic media as well as in the political circle. It appears like "Hamlet's riddle" i.e., "to be or not to be" which can be viewed as a matter of challenge and opportunity too.

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<sup>1</sup> Legal Correspondent, *Reform is a Continuous Process: PM*, THE HINDU, Sept. 30, 2012, at 1.

<sup>2</sup> Available at <http://timesofindia.indiatimes.com/india/FDI-in-retail-will-enslave-India-says-Anna-Hazare/articleshow/10933264.cms>.

The research finding suggests FDI in organized retail a threat to the majority interest. The much sought benefits like profit to farmer and consumer is an imaginative speculation and it will not concur with real life experience. The difficulties which will foil the desired interest are restriction in purchasing, predatory pricing and evil business practice. The people in India have no veto power like in United States of America (U.S./U.S.A.), in determining the fate of the big retailers. India's benefit to a great extent is related to the infrastructural development which can be supplemented by the back end infrastructural growth. It is acknowledged that the research limitation is based on the secondary data. Any kind of ambiguity automatically creates scope for future research. Finally, we suggest that the government should take necessary step in restoring the life and livelihood of the small retailers by imparting loan and in checking the malafide trick of the big players so that they cannot intrude the vicinity of the small sellers and *kirana* stores. Even though organized retail is targeted to the foreign players still the native companies running retail business on single entrepreneurship should be regimented in accordance with law.

### **Objective**

India's present policy on organized retailing shows its obligation and expansion of World Trade Organization (WTO) agreement on FDI. This extension of FDI in retail sector has been viewed as an alternative step to check inflation and to stabilize the economy. By FDI in organized retailing India targets huge capital flow in the country and it will incur substantial growth in revenue in form of tax collection. Indian retail sectors are of two types i.e., organized and un-organized. When 96% retail sectors are un-organized, mere 4% are organized. Thus retailing in organized sector is at its nascent stage. As a part of reformation, FDI in multi-brand retailing in organized sector has been extended up to 51% and for single brand retailing there is no bar. "FDI excludes investment through purchase of shares. FDI can be used as one measure of growing economic globalization."<sup>3</sup> It has been estimated that the benefit of FDI in organized retailing will strengthen the national exchequer and meet the consumer interest. It will also help the farmers who can get good return of their product by selling their stuff to the retail owners. So it is assumed that FDI in organized retailing will promote the national economy, cater the consumers' interest and value the farmers' labor in fair means of purchase.

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<sup>3</sup> Gourav Bisaria, *Foreign Direct Investment in Retail In India*, 2(1) INTERNATIONAL JOURNAL OF ENGINEERING AND MANAGEMENT RESEARCH 31 (2012).

**Table-1 FDI Share in Organized Sector in 5 Countries<sup>4</sup>**

Country	Share of Organized Sector (%)
U.S.	85
U.K.	80
Japan	66
Russia	33
India	04

The benefits of FDI in organized retailing can be challenged on various grounds. In India retail sector provides around 35 million engagements which is second largest employment after agriculture.<sup>5</sup> It is feared that the big magnets like Wal-Mart will displace the traditional un-organized small stores called as *kirana* stores by their global experience and competitive approach. It may bring huge unemployment to the small vendors and the middlemen who earn their livelihood in the wide gamut of supply chain circulation in business. “In terms of employment in retail sector around 38% in rural areas and around 47% in urban areas depend on retail trade for their livelihood, which will be affected. 14 *crore* people are directly or indirectly earning from the retail sector and if we associate their family members then this number would reach 40 *crore*.”<sup>6</sup> Besides, the competitive advantage of organized FDI retail owners over the small shop-keepers can never be overlooked as they are well equipped in their business skill. They have good access to improved technology and financial mobility. They also know how to facilitate attractive offer and quality service to the consumers. Basing on these added advantages it can be anticipated that the imperial retail business in our country would be at the upper hand to distract the poor and indigent sundry sellers and vendors from the main stream of supply chain middle man ship of retailing to the cavern of grief. The fear of extinction may jeopardize the livelihood of these struggling indigenous sellers. In a world of cut throat competition success to one at the cost of extinction to the other may prove true to the Darwin’s Theory of Evolution but it will hold no good if the poor and raucous mass are pressed under the gluttony of reformation.

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<sup>4</sup> ORGANISED\_OR\_UNORGANISED\_RETAIL\_FINAL.PDF, available at [http://zeenews.india.com/business/Special/Organised\\_or\\_Unorganised\\_Retail\\_Final.pdf](http://zeenews.india.com/business/Special/Organised_or_Unorganised_Retail_Final.pdf).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 33.

Developmental initiative in form of reformation brings transformation in the society. The benefits of reformation should address the problems of the most vulnerable and under privileged sections who strive for their livelihood. To overcome any crisis we can seek guidance from the time tested wisdom of Gandhiji who stucked to the means than the ends. He advised to focus on small and practicable things which will improve the national economy as well as benefit the poor community. Before instituting any reformative initiative its pros and cons impact should be properly analyzed. So that it's adverse impact can be checked to a great extent. Taking the huge criticism from various sections of society it can be said that a psychological fear has haunted FDI issue like "Adam's forbidden apple" which may dilute the truth. FDI in organized retail sector is believed to check the national crisis of uncontrolled inflation and incur revenue to stabilize the economy, benefit the consumers and farmers but it is also alleged that the middleman in the supply chain mostly small shopkeepers and sundry sellers will be pressed out from the competition as the mammoth retail owners are robust enough to push them out for an un-certain future and loss of livelihood. Therefore we wish to undertake a close study on FDI retail in India. Our comprehensive effort will take all due diligence in finding some remedial measures.

### **Review of Literature**

The literature reviewed on FDI in organized retailing can be categorized into two groups. When some literature focuses on the brighter side of FDI in organized retailing,<sup>7</sup> others speculate the consequence of its adverse impact on the small *kirana stores* and vendors in the supply chain.<sup>8</sup> *Economic Survey 2010-11* shows the brighter perspective of FDI in organized retail enterprise and it attributes technology and modernization as pre-requisite for effective supply management and development. This would be beneficial for the farmers and consumers. Critics favoring FDI in organized retail argue that consumers will get quality stuff of their choice in low price. They reason it out when competition will be wide spread, there will be transparency, choice, variety and trust in consumer service. It will also reduce the marketing monopoly and create a win-win situation for consumers as well as retailers to be truthful and careful in the exchange of quality and service. The farmers will supply their product

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<sup>7</sup> Keerti Kulkarni et al., *Foreign Direct Investment in Indian Retail Sector: Issues and Implications* 280-283, 3(3) I.J.E.M.S. (2012).

<sup>8</sup> Sukhpal Singh, *FDI in Retail: Misplaced Expectations and Half-Truths*, XLVI(51) ECONOMIC AND POLITICAL WEEKLY 13-16 (2011).

to the retail store owners and out of this transaction they will harvest good price of their product.<sup>9</sup> FDI in organized retailing will strengthen the national economy in form of huge revenue which can be spent in national welfare. All the benefits of FDI in organized retailing cited by the critics will redeem the national crisis from inflation and enrich the economy through tax collection and surplus foreign currency. This reformation they believe will bring all kinds of prosperity to the nation. However reformation at the cost of agony and embarrassment of many displaced middlemen vendors and sellers will certainly create further problem and it will dismantle the welfare spirit of a democratic nation.

The apprehension on FDI in organized retailing holds introspection in value judgment as its adverse consequence on the un-organized workforce will break their middlemen ship and employment in the supply chain.<sup>10</sup> It is also anticipated that FDI in retailing will once again capture the imperial hold in our land like the East India Company succeeded in reining India through trade and business.<sup>11</sup> But time is changing and the global scenario of the liberal economy has been expanded to explore the resource and utility of consumer taste by the ample scope of open market and keen competition. In China FDI in retail sector has brought success in retailing business as well as benefit to the consumers. It may be asserted that India's FDI policy will rewrite the success story as it has been experienced in the neighboring state China.

One researcher is so vociferous in greeting FDI in Indian retail that he never fails in saying that it is better in doing something than in not doing anything. In his research finding majority people opine in favor of FDI in organized retailing because it will benefit consumers and farmers. However he has overlooked the majority people's apprehension i.e., the colossal impact of organized FDI on the un-organized retailers' in loss of job and livelihood. It criticizes his own criticism on "some" who oppose FDI in India because it goes against his own research finding.<sup>12</sup>

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<sup>9</sup> [http://www.technopak.com/about%20technopak/Article\\_of\\_the\\_month\\_jan\\_2012.pdf](http://www.technopak.com/about%20technopak/Article_of_the_month_jan_2012.pdf).

<sup>10</sup> Bisaria, *supra* note 3.

<sup>11</sup> B.B. Salunkhe, *Swot Analysis of Foreign Direct Investment in Indian Retail Sector*, 3(30) I.I.R.R.J. 58-59 (2009).

<sup>12</sup> Bisaria, *supra* note 9.

**Table-2 Projected Size of the Organized Retail Industry<sup>13</sup>**

Year	Increase in Size (in crore)
2008	965
2010	1728
2015	5610
2022	17368

India's present population shares one sixth of the total global population.<sup>14</sup> So there is no doubt that India's huge population has been a big attraction for FDI in retail sector. Besides Indian market attracts the global retailers the most and it is also preferred by them because they face no steep competition.<sup>15</sup> Retail sector in India contributes 13% to Gross Domestic Product (GDP) and shares 6% of the total work force.<sup>16</sup> These facts and congenial environment can be a possible reason to attract the foreign retail players to have their enterprise in India.

We agree with the researcher's prudent argument on China's policy on FDI in retail sector. "China took over 12 years to liberalize its FDI regime, and in stages. It first allowed only 26% FDI in retail in 1992, took another 10 years to raise the limit to 49%, and allowed full foreign ownership in 2004, but only in certain cities."<sup>17</sup> Basing on this report it can be said that China is very cautious in accepting FDI in organized retailing. India, on the other hand, has not sought any strategic public opinion to adopt the same. FDI in retail sector is a matter of national interest but it is regretted that the seriousness of the matter has not been acknowledged by the leaders. China's foreign policy shows a lot of maturity because it has taken substantial care to promote its indigenous and traditional shop keepers and businessmen with top priority before allowing the foreign investors to spread their business. India's move in FDI does not show much promise because our small shopkeepers and vendors are not well equipped to compete with global competitors like Wal-Mart.

<sup>13</sup> SKILL GAP ANALYSIS REPORT FOR ORGANISED RETAIL INDUSTRY | REPORT ON HUMAN RESOURCE AND SKILL REQUIREMENTS IN ORGANISED RETAIL SECTOR -ORGANISED-RETAIL.PDF, available at <http://www.nsdcindia.org/pdf/organised-retail.pdf>.

<sup>14</sup> Available at <http://defenceforumindia.com/forum/politics-society/30771-indias-population-2012-a.html>.

<sup>15</sup> A.T. Kearney, *Growth Opportunities for Global Retailers* (2007), available at [www.atkearney.com](http://www.atkearney.com).

<sup>16</sup> Price Water House, *The Benefits of Modern Trade to Transitional Economies*, CII (2008).

<sup>17</sup> Singh, *supra* note 7, at 16.

## **Research Questions**

Basing on the literature review some research questions can be put forth which we will analyze in the end part of our discussion:

1. Will the reformation in FDI in organized sector bring financial gain to our national economy?
2. Who are going to gain and to what extent?
3. How can the unemployment in the supply chain of business be mitigated?
4. What should be the strategic implementation of FDI in India?
5. What can be a sustainable paradigm between growth and livelihood?

## **Method**

Research has been made basing on secondary data. This data includes newspaper and journal articles and web materials. The researchers have taken due care in maintaining objectivity and transparency before relying on the importance of the data.

## **Discussion**

### **1. The Discussion Paper**

The discussion paper has laid down some propositions on organized FDI in multi-brand retailing. Its observation suggests FDI will bring improvement in-technology and supply chain management, skilled man power, growth in agricultural production and overall benefit to consumers and farmers. It will also increase the national GDP and create scope for employment. It has been expected that FDI will bring employment opportunity to the rural youths up to 50% and the big foreign retailers will procure 30% food stuff or goods from Small and Medium Enterprises (SMEs) on mandatory basis. This provision shows that FDI will be beneficial to the rural youths in finding jobs when un-employment problem has shattered the village economy to a great extent. However it is feared that the big retailers need skilled man power of business acumen to which the rural youths may not be fit into. The proposition that the big retailers will buy their 30% goods from SMEs is not consistent with WTO rules of Article 3 and Article 11 of the General Agreement on Tariffs and Trade, 1994 (hereinafter GATT). As per the provision under the Trade Related Investment Measures (TRIMs), the retailers cannot be forced to purchase commodity in any specific country. India

being a signatory of WTO cannot induce the foreign retailers to purchase the same from the SMEs of its own. Thus, the expected benefits of FDI may not be helpful neither to the rural youths nor the SMEs.

The discussion paper foresees that FDI will benefit both the farmers and consumers. But research finding shows the adverse scenario. “Carrefour was fined in South Korea for unfair business practices, i.e., forcing suppliers over 10 months to cut prices to save 1.737 billion won in 2005. It was also fined \$170,000 by the Indonesian Business Competition Authority in 2005 for not sourcing goods from a listed supplier who then went bankrupt, which was considered an unfair competition practice.”<sup>18</sup> It is a pity that the Indian super markets procure maximum goods from the whole sale markets rather than the product of the farmers.<sup>19</sup> Some researchers have estimated 4% reduction of farmers’ income in America in 2005 in comparison to their 20th century earning i.e., 70 cent for every one dollar of sales. It has occurred at the presence of Wal-Mart.<sup>20</sup> Similarly Tesco pays less to the farmers in United Kingdom (U.K.) and due to this farmers of Scotland had no option till they had formed “Fair Deal Food Committee”.<sup>21</sup> If it will be the trade practice of the foreign retailers then farmers’ profit will be a kind of distant dream for them.

The discussion paper also refers about the successful business of the organized FDI in the countries like Brazil, Argentina, Singapore, Indonesia, and China. In one research observation in Thailand it has been found 14% reduction in the traditional “mom and pop” stores due to the advent of super markets in 4 years time span of FDI permission.<sup>22</sup> It is feared that the global retail players will take no time in vanquishing and displacing the supply chain of the un-organized indigenous sellers who are quite unmatched to sustain their business in a dubious environment. It is also seen that the manufacturers give substantial rebate to the big retailers but keep no transaction

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<sup>18</sup> *Id.* at 14.

<sup>19</sup> S. SINGH & N. SINGHAL, FRESH FOOD RETAIL CHAINS IN INDIA: ORGANISATION AND IMPACTS (Allied 2011).

<sup>20</sup> A.K. Tyagi & Mohammad Rizwan, *Critical Review of FDI on Retail Industry in India*, 2(2) I.J.I.R.C.M. (2012).

<sup>21</sup> *Id.*

<sup>22</sup> MYRIAM VANDER STICHELE, SANNE VAN DER WAL & JORIS OLDENZIEL, WHO REAPS THE FRUIT? CRITICAL ISSUES IN THE FRESH FRUIT AND VEGETABLE CHAIN (Center for Research in Multinational Corporations, June 2006).



with the small retail stores. “If we take examples of 2 soft drinks like Coca-Cola and Pepsi, we will know that wherever they have gone they have killed the domestic products. They did the same in India. Today we don’t hear about the brands like Campa Cola. It has vanished from the market.”<sup>23</sup> So the threat of the foreign retailers can bring death knell to the small retailers who have no other means of livelihood. Once the competition is over, the foreign players will dictate the market levying high price on the consumers. In this way the consumers are going to be fooled like the farmers in not so distant future. So the entry of foreign retailers will harass the farmers when they get less money for their product. It will also disappoint the consumers when they face the brunt of evil trade practice by the foreign retailers.

## **2. People’s Participation and Veto Power**

In U.S. people at the local level enjoy veto power which helps them in preventing the big stores like Wal-Mart. The people’s forum in Watertown and Somerville there has been successful in exerting pressure on Wal-Mart from withdrawing its business initiative even though it planned to open stores in both the towns.<sup>24</sup> The people’s success not only highlights their community right but also leaves a reminder to the government as well as the big retail stores. In India where government decision is highly centralized and people have least scope to intervene in the governmental action suffer the most. Even the civic society movement waged by Shri. Anna Hazare which has stirred the voice of the nation, has not brought any change in government’s decision in framing the *Jan Lokpal* Bill. Thus it is futile to hope that government will delegate any power to people which would ascertain their interest.

## **3. Predatory Pricing and Competition Law**

Section 4 of the Competition (Amendment) Bill, 2007 restricts the abuse of monopoly in business. The fear of un-fair trade practice by the foreign retail players is an open possibility which may exterminate the un-organized vendors and sellers in a market of competition. Predatory pricing is one such dangerous thing which puts tremendous pressure on the small sellers. The big retailers initially sell their stuff in rock bottom price to attract the

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<sup>23</sup> Bisaria, *supra* note 3, at 34.

<sup>24</sup> Garga Chatterjee, *Let Grass Roots Decide on Walmart*, THE HINDU, Oct. 12, 2012, at 6.

customers and to hold their rein in the competition. Selling things less than purchasing price is a capricious business trick which tramples the economy of the small sellers in the political game of business waged by the big players. Another threat is the policy of restriction. The big players while dealing with the farmers put a condition that they will purchase all the stuff from them and the farmers in the mutual deal cannot sell their product to any other middle man. This kind of informal agreement restricts the scope of the unorganized sellers in availing the stuff from the producer. “To prove dominance of a corporate retailer, particularly multi-product retailer, would not be simple because corporate retailers deal with many products and many geographical markets. Their dominance in one geographical market may be used to enter new markets, and to do so they may use a combination of predatory pricing and high promotional expenditure.”<sup>25</sup> Therefore in retail business it is very difficult to check such type unfair trade practices.

#### **4. 90th Standing Committee Report**

The 90<sup>th</sup> Standing Committee’s report on organized multi-brand FDI retail has raised deep concern for the poor sellers and vendors and along with this it has suggested for setting up of a Retail Regulatory Authority. The Committee going deep into the anguish ridden and uncertain livelihood of the indigent sellers fervently realizes that: “[I]n a country with huge numbers of people and high level of poverty, the existing model of retailing is most appropriate in terms of economic viability. Unorganized retail is a self-organized industry, having low capital input and high levels of decentralization. The Committee, therefore, recommends that the government should ensure that some in-built policy must be established to relocate or re-employ the people who are dislocated due to opening up of big malls in the vicinity of their shops”. Besides the Committee has cited that: “[T]here is a compelling need to prepare a legal and regulatory framework and enforcement mechanism for the same, that would ensure that the large retailers are not able to displace the small retailers, by unfair means”.

To uphold justice for the lowly indigenous businessmen the Committee recommends: “[F]or setting up of a Retail Regulatory Authority, to look into the problems and act as a whistle blower,

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<sup>25</sup> Anuradha Kalhan & Martin Franz, *Regulation of Retail: Comparative Experience*, KLIV (32) ECONOMIC AND POLITICAL WEEKLY 58 (2009).

in case of anti-competitive behavior and abuse of dominance. Urban planning, zoning laws and environmental laws in urban areas should be used to limit the multiplication of malls and corporate retailers, by creating transparent criteria for licenses, that are linked to the density of population and the stage of existing competition in retail in the zone. The regulatory mechanism should be strengthened and be made more democratic, by including the representatives of farmers also". The Committee has also suggested for a National Shopping Mall Regulation Act which would regulate the entire retail sector. All these provisions placed by the Committee in its report highlights an anticipated threat to the life and livelihood of traditional shop keepers.

### **5. Silver Linings in FDI**

In spite of the apprehension and criticism FDI can be perceived as a catalyst and problem shooter in catering the basic need of the nation. It is believed that FDI in Indian organized retail will improve 50% back end infrastructure. Here back end infrastructure does not include purchase of land and rental expenditure for the establishment of the big retailers. The reformative vision to impart the supply chain for the beneficiaries has some advantage but it can only be feasible when there would be proper development in infrastructure facilities like road, transport, cold storage etc., to check any kind of wastage of the food stuff. One thing which has disappointed the farmers is continuous devaluation of their food grain and loss of harvest due to draught and agriculture related calamities. The most shocking thing is that in some cases being over burdened with the loan and loss of production they opt for committing suicide. It is believed that the back end infrastructure will help the farmers in preserving their food grains and increase their productivity through sensitization of new technology.

### **Finding**

Basing on the discussion it can be said that FDI in retail sector will certainly bring financial gain to the national exchequer in form of tax collection. This will also improve the national economy. If financial gain is taken into account, then FDI retailing is a welcome step in this regard. Our research finding sees no significant benefit to the farmers and consumers by the present policy on FDI in organized retailing. But this policy will definitely benefit the government and the foreign players in retail business. The fear of unemployment to the

small sellers has been cited by the 90th Standing Committee and many of the researchers. We also see similar type of predicament to these vulnerable sections of the society because the present policy has not addressed properly how to re-settle the 4 *crore* population from un-organized retail sector who are the main contributor in the supply chain of business. The unemployment problem of the small retailers can be mitigated by proper regulation of completion and labor law. The small retailers should be given financial assistance on regular basis for their life and livelihood. Forcing someone to live in hunger goes against the very spirit of Article 21 of the Constitution of India, 1950.

The strategic implementation of FDI in organized retail needs collective participation of all the stake holders in determining the future course of action along with expert opinion which can resolve the present crisis. In this context a well-documented law is so much required to check and punish the perpetrator and help the victims in business and competition. Growth is a statistical report and it is related to the improvement in the standard of living of the people. In a country like India the growth curve has not yet been able to bring any parity between poor and rich. Thus a sustainable paradigm lies in facilitating the minimum means of livelihood to the under privileged sellers whose life is in great risk due to the entry of the foreign players in organized retail. Therefore we prefer livelihood of the unorganized sellers than growth because by it a sustainable paradigm can be developed. It is also part of the United Progressive Alliance (UPA) election agenda which they should never fail to fulfil.

### **Conclusion**

Our research finds FDI in organized retail a threat to the majority interest. The much sought benefits like profit to farmer and consumer is an imaginative speculation which will not concur with real life experience. The hindrances which will foil the desired interest are restriction in purchasing, predatory pricing and evil business practice. It will be very difficult to check the dominance of the big retailers in retail business. The people in India have no veto power like U.S., in determining the fate of the big retailers. The success story of U.S. opens scope for local people to take part in the decision making process so that the big players will not overlook the community strength. India's benefit to a great extent is related to the infrastructural development which can be supplemented by the back end infrastructural growth. It is a shining vision of FDI. We acknowledge our research limitation as it is based on the secondary data. Any kind of ambiguity automatically creates scope for future

research. So we leave the rest for the future researcher to extend the work. Finally, we suggest that the government should take necessary steps in restoring the life and livelihood of the small retailers i.e., by imparting loan and in checking the malafide trick of the big players so that they cannot intrude the vicinity of the small sellers and *kirana* stores. Even though organized retail is targeted to the foreign players still the native companies running retail business on single entrepreneurship should be regimented in accordance with law.

