



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

शनिवार, जानेवारी १४, २००६/पौष २४, शके १९२७

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Regularisation of Unauthorised Developments in the City of Ulhasnagar Ordinance, 2006 (Mah. Ord. I of 2006), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

[Translation in English of the Regularisation of Unauthorised Developments in the City of Ulhasnagar Ordinance, 2006 (Mah. Ord. I of 2006), published under the authority of the Governor.]

URBAN DEVELOPMENT DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 14th January 2006.

MAHARASHTRA ORDINANCE No. I OF 2006.

AN ORDINANCE

to regularise unauthorised developments in the City of Ulhasnagar and for matters connected therewith or incidental thereto.

WHEREAS there has been unauthorised developments in the City of Ulhasnagar, on the large scale ;

AND WHEREAS such unauthorised developments are liable to be removed and pulled down ;

AND WHEREAS by removal and pulling down of such unauthorised developments, hardship to a large number of people is likely to be caused ;

(९)

AND WHEREAS it is expedient to have a law to provide for regularisation of certain unauthorised developments in the City of Ulhasnagar and for matters connected therewith or incidental thereto ;

AND WHEREAS both Houses of the State Legislature are not in session ;

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to make a law, for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

Short
title and
commence-
ment.

1. (1) This Ordinance may be called the Regularisation of Unauthorised Developments in the City of Ulhasnagar Ordinance, 2006.

(2) It shall come into force at once.

Definitions.

2. (1) In this Ordinance, unless the context requires otherwise,—

(a) "Commissioner" shall have the meaning assigned to it in clause (9) of section 2 of the Bombay Provincial Municipal Corporations Act, 1949 ;

(b) "Designated Authority" means the Designated Authority appointed under sub-section (5) of section 3 ;

(c) "prescribed" means prescribed by rules made under this Ordinance ;

(d) "unauthorised development" means the development carried out, without obtaining the permission of the authority competent to give such permission or in contravention of the permission.

(2) Words and expressions used but not defined herein shall have the respective meanings assigned to them in the Maharashtra Regional and Town Planning Act, 1966, or the Bombay Provincial Municipal Corporations Act, 1949.

Regularisa-
tion of
unauthorised
develop-
ments.

3. (1) Notwithstanding anything contained in the Maharashtra Regional and Town Planning Act, 1966 or the Bombay Provincial Municipal Corporations Act, 1949 or any rules, regulations or bye-laws made thereunder (hereinafter referred to as "the relevant law"), unauthorised developments carried out in the City of Ulhasnagar, before the 1st January 2005, shall be regularised in accordance with the provisions of this Ordinance.

(2) (a) A notice issued to a person under the relevant law at any time before the 1st January 2005, requiring such person to remove, pull down or alter unauthorised development carried out, owned or occupied by him ; or

(b) any order issued or decision taken under the relevant law at any time before the date of publication of the Regularisation of Unauthorised Developments in the City of Ulhasnagar Ordinance, 2006, in the *Official Gazette*, directing removal, pulling down or alteration of unauthorised development carried out or discontinuance of any use of land or building owned or occupied by a person, shall, unless and until such notice, order or decision stands revived under sub-section (7), be deemed to have stood suspended on the date of publication of the Regularisation of Unauthorised Developments in the City of Ulhasnagar Ordinance, 2006, in the *Official Gazette*.

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(3) (a) Notwithstanding anything contained in the relevant law or in the order issued or the decision taken under such law, directing removal, pulling down or alteration of unauthorised development, or discontinuance of any use of land or building, the Designated Authority, either on the basis of information available with it or on an application made to it, is of the opinion that, unauthorised development carried out in the City of Ulhasnagar before the 1st January 2005 may, having regard to the provisions of section 4, be regularised, it may, within such period and in such manner as may be prescribed, serve on such person a notice requiring him within such period not being less than a month as may be specified therein to comply with requisitions made under section 4 and to deposit the compounding fees determined in accordance with the Table below and the development charges leviable under section 124 B of the Maharashtra Regional and Town Planning Act, 1966.

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of 1966.

TABLE OF FEES

Category of unauthorised development (1)	Compounding fees per square meter (2)
A. For uses other than commercial.	
(1) Margins and set-backs	10% of the market value of land as per Ready Reckoner.
(2) Floor Space Index	20% of the market value of land as per Ready Reckoner.
(3) Covered projection	10% of the market value of land as per Ready Reckoner.
(4) Change of use	10% of the market value of land as per Ready Reckoner.
(5) Common plot and consolidated open plot.	10% of the market value of land as per Ready Reckoner.
(6) Height of building	Rupees two thousand per running meter over and above the permissible height of building.
(7) Parking deficiency	10% of the market value of land as per Ready Reckoner.
(8) Other than items (1) to (7) above.	As the State Government may, by general or special order, notify.
B. For commercial use.	
	(i) Two times of the fees specified for use mentioned in clause A for ground floor and first floor.
	(ii) One and half times of the fees specified for use mentioned in clause A for floors other than those specified in item (i).
C. In land measuring not exceeding one hundred square meters.	
	Fifty per cent. of the fees specified for use mentioned in clause A or, as the case may be, clause B.

(b) The Designated Authority shall, as soon as may be, after service of notice to a person under clause (a), cause the substance thereof to be published for the information of the general public, in such manner as may be prescribed.

(4) (a) Upon the compliance of requisitions made under section 4 and on the payment of compounding fees and development charges under sub-section (3), such development shall cease to be unauthorised and the Designated Authority shall issue a certificate to that effect. If the Designated Authority decides not to regularise the unauthorised development, the decision shall be communicated to the person concerned.

(b) (i) The Designated Authority shall, constitute a committee of experts, consisting of three persons, who, in the opinion of the Designated Authority, have knowledge of, and experience in, structural engineering, fire fighting and town planning, respectively ;

(ii) the Designated Authority shall, before receiving the fees and development charges and issuing the certificate under clause (a), consult the committee constituted under sub-clause (i), on the question as to whether the person has complied with the fire safety measures and structural stability requirements, as per the National Building Code and the Indian Standard Specifications for the time being in force ; and it shall be the duty of the committee to advise the Designated Authority on the question so referred ;

(iii) the Committee shall follow such procedure for disposal of its business as may be determined by the Designated Authority.

(5) The State Government may, by notification in the *Official Gazette*, appoint commissioner or an officer not below the rank of Deputy Secretary to Government to be the Designated Authority, for the purposes of exercising the powers and discharging the duties under this Ordinance. The Designated Authority shall receive such monthly salary and allowances from the Municipal Fund of the Ulhasnagar Municipal Corporation, as the State Government may, from time to time, determine.

(6) Any amount deposited by a person with the Ulhasnagar Municipal Corporation against unauthorised development shall be set-off against the fees to be paid by him under sub-section (4).

(7) Where no notice is served upon a person under sub-section (3) within the period prescribed under that sub-section or where a notice is served upon a person under sub-section (3) but a certificate is not obtained by him under sub-section (4) within such period as may be specified the notice, order or, as the case may be, the decision referred to in sub-section (2) shall stand revived.

Circumstances in which unauthorised development may or may not be regularized. 4. (1) An unauthorised development shall not be regularised under sub-section (3) of section 3, if it is carried out on,—

(i) land under alignment of existing public roads or an internal road, of approved layout ;

(ii) water courses and water bodies like tank beds, river beds, natural drainage and such other places ; and

(iii) areas earmarked for the purpose of obnoxious and hazardous industrial development.

(2) Unauthorised development may not be regularised if it is inconsistent with,—

(a) fire safety measures under the relevant law ; and

(b) structural stability requirements as per the National Building Code and the Indian Standard Specifications (prescribed by the Bureau of Indian Standards) for the time being in force :

Provided that, if the applicant furnishes to the Designated Authority, a certificate from the Chief Fire Officer of the Municipal Corporation of the City of Ulhasnagar or the structural engineer authorised by it certifying compliance of provisions of clause (a) or (b), as the case may be, unauthorised development may be regularised.

(3) (a) The Designated Authority may regularise any unauthorised development in respect of the following matters, namely :—

- (i) Margins and setbacks ;
- (ii) Floor Space Index (F.S.I.) ;
- (iii) Covered projection ;
- (iv) Change of use ;
- (v) A common plot and a consolidated open plot ;
- (vi) Height of a building ;
- (vii) Parking deficiency :

Provided that, the Designated Authority shall not regularise unauthorised developments having Floor Space Index (F.S.I.) more than 4.00 and projections beyond plot boundary and the change of use which in the opinion of the Designated Authority may cause danger to health or lead to hazard ;

(b) The Designated Authority may regularise any unauthorised development, in so far as sanitary facilities are concerned on providing necessary sanitary facilities by the applicant, as may be directed by the Designated Authority.

(4) Notwithstanding anything contained in clause (b) of sub-section (2), the Designated Authority may, for the purpose of regularisation, direct making of provisions in the unauthorised development as follows, namely :—

(a) in the case of buildings with 100 per cent. built-up area with no space for water storage tank and installation of fire pumps and no provision of alternate means of escape or no provision for fixed fire fighting installations, the Designated Authority may, in consultation with the Chief Fire Officer of the Municipal Corporation of the City of Ulhasnagar, direct the person to provide such fire safety measures as may be specified in the direction within a period of three months from the date of such directions ;

(b) in the case of buildings where no space is available within the complex in which they are situated for the construction of underground water storage tank and installation of fire pumps but adequate means of escapes are available, the Designated Authority

may direct the person to provide common underground water storage tank and fire pumps in such complex at suitable location within a period of three months from the date of direction ;

(c) in the case of high rise buildings having height of fifteen meters or exceeding fifteen meters, the Designated Authority may permit a person to install diesel generating set instead of electric supply to the main fire pump within a period of three months.

Consequences of regularisation.

5. (1) Notwithstanding anything contained in any other law for the time being in force, the unauthorised development on being regularised, shall be deemed to have been exempted under section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 from the provisions of Chapter III of the said Act, the Government land under encroachment shall be deemed to have been transferred in favour of encroachers, subject to the payment of price of land, as may be determined by the Collector of District of Thane, and stand converted to non-agricultural use for all purposes of the Maharashtra Land Revenue Code, 1966, subject to the payment of non-agricultural assessment and the other statutory terms and conditions, if any, of such conversion and the provisions of the Development Plan or the Regional Plan, as the case may be, shall so far as such development is concerned, stand modified or relaxed, to the extent of regularisation.

33 of 1976.

Mah. XLI of 1966.

(2) On such regularisation of unauthorised development under section 3, all court cases or other proceedings, filed by the Municipal Corporation of the City of Ulhasnagar and pending in any court in so far as they relate to such unauthorised development, shall abate.

Appeals.

6. (1) Any person aggrieved by the order or decision of the Designated Authority under clause (a) of sub-section (4) of section 3 may, within thirty days from the date of the receipt of the order, prefer an appeal to an Appellate Officer, who shall be a person who has held the office of Judge of a District Court or Secretary to the Government of Maharashtra, for a period not less than one year and appointed in this behalf by the State Government :

Provided that, the Appellate Officer may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Appellate Officer may, after giving the appellant an opportunity of being heard, pass an order confirming, modifying or canceling the order appealed against.

(3) The decision of the Appellate Officer shall be final and shall not be questioned in any court of law.

(4) No appeal under this section by an aggrieved person shall be entertained by the Appellate Officer unless it is accompanied by Court fee stamp of one hundred rupees.

(5) The Appellate Officer shall receive from the Municipal Fund of the Ulhasnagar Municipal Corporation, such monthly salary and allowances as the State Government may determine from time to time.

7. Subject to the rules made under this Ordinance, all fees received under this Ordinance shall be credited to a fund which shall be called the Infrastructure Development Fund and which shall be held by the Designated Authority in trust for the purpose of augmentation, improvement or creation of an infrastructure facility.

Constitution of Infrastructure Development Fund.

8. (1) No suit, prosecution or other legal proceedings shall lie against any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rules made thereunder.

Protection of action taken in good faith

(2) No suit or other legal proceedings shall lie against the State Government or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rules made thereunder.

9. For the removal of doubt, it is hereby declared that regularisation of unauthorised development under this Ordinance shall be without prejudice to any civil or the criminal liability to which a person may be subject to under any other law for the time being in force.

Removal of doubt.

10. (1) The State Government may issue, from time to time, directions to the Ulhasnagar Municipal Corporation as it may deem fit for giving effect to the provisions of this Ordinance and it shall be the duty of the Corporation to comply with such directions.

Power of the State Government to give directions.

(2) If in, or in connection with, the exercise of its powers and discharge of its functions by the Designated Authority under this Ordinance dispute arises between the Designated Authority and the Ulhasnagar Municipal Corporation, the dispute shall be referred to the State Government and the decision of the State Government thereon shall be final.

11. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Ordinance.

Power to make rules

(2) Except when the rules are made for the first time, all rules made under this Ordinance shall be subject to the condition of previous publication.

(3) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:—

(i) the period within which and the manner in which a notice shall be served under sub-section (3) of section 3 and the manner of publication of substance of notice under clause (b) of that sub-section ;

(ii) any other matter, which is to be or may be prescribed.

(4) Every rule made under this Ordinance shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

STATEMENT

Ulhasnagar is primarily a city of refugees or displaced persons who were rehabilitated after migration from West Pakistan in the aftermath of partition. The township was originally a military transit camp built up by the then British Government in 1942 during the Second World War to house 6000 British soldiers. There were 1173 barracks available and 94,400 persons migrated from West Pakistan were accommodated there. Many remained without a roof over their head. Many occupied vacant land and put up their shelters. Pangs of partition and displacement was audible from packed barracks and unorganised shanties set up on open lands.

2. The Municipal Council of Ulhasnagar was set up in 1960. The Development Control Regulations for this Town were published in 1974. The Floor Space Index allowed was 1.00. In the Development Plan prepared by the Mumbai Metropolitan Region Development Authority for the City of Ulhasnagar, it is observed that the population of 4,73,000 is spread over an existing residential area of 7 square kilometers (density of 700 persons per hectare).

3. Population explosion and limited areas with limited Floor Space Index, greedy and unscrupulous builders and negligent local administration, have brought to the City the large scale illegal construction. These were brought to the notice of the Hon'ble High Court through different Public Interest Litigations (PIL) and the Hon'ble High Court has ordered that illegal constructions need to be demolished. They ought to go. However, demolition on such a large scale may lead to law and order problem and hardship to residents and a large number of them would be rendered homeless and it is not possible to provide them with alternative accommodation. This will virtually lead to the second displacement of the persons migrated from West Pakistan, requiring rehabilitation which Government can hardly afford.

4. The issue was discussed in the last Winter Session of the State Legislature and the representatives of the people urged the Government to come with some solution to mitigate miseries of occupants of the unauthorised structures in the City of Ulhasnagar.

5. The Government, therefore, considers it expedient to make a special law providing for regularisation of the unauthorised constructions in the City of Ulhasnagar on the lines of the Gujarat Regularisation of Unauthorised Development Act, 2001 (Guj. Act No. 23 of 2001).

6. The Ordinance *inter alia* provides for,—

(i). regularisation by the Designated Authority of unauthorised development (other than the unauthorised development on lands under alignment of existing public roads or an internal road of an approved layout, water courses and water bodies, natural drainage, etc., and areas earmarked for the purpose of obnoxious and hazardous industrial development) in the City of Ulhasnagar made upto the 1st January 2005 and upto 4 Floor Space Index (F.S.I.), on payment of the compounding fees and development charges on the basis of the category of development;

(ii) appointment of expert committee consisting of three persons, who have knowledge of and experience in structural engineering, fire fighting and town planning, to advise the Designated Authority about the fire safety measures and structural stability requirements;

(iii) regularisation of the unauthorised development in respect of margins and setbacks, covered projection, change of use, height of buildings and parking deficiency, etc.;

(iv) appeal by the person aggrieved by the order or decision of the Designated Authority;

(v) Constitution of Infrastructure Development Fund.

7. As both houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to make a law for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,

S. M. KRISHNA,

Dated the 14th January 2006.

Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

RAMANAND TIWARI,

Principal Secretary to Government.