



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ३, अंक ९]

बुधवार, एप्रिल १३, २०११/चैत्र २३, शके १९३३

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असाधारण क्रमांक ४२

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी 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 Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Amendment) Bill, 2011 (L.A. Bill No. XVI of 2011), introduced in the Maharashtra Legislative Assembly on the 13th April 2011, is hereby published under the authority of the Governor.

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

H. B. PATEL,
Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. XVI OF 2011.

A BILL

further to amend the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

Mah. XXVIII of 1971. WHEREAS it is expedient further to amend the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-second Year of the Republic of India as follows:—

1. This Act may be called the Maharashtra Slum Areas Short title. (Improvement, Clearance and Redevelopment) (Amendment) Act, 2011.

Amendment
of section 2
of Mah.
XXVIII of
1971.

2. In section 2 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (hereinafter referred to as "the principal Act"),—

Mah.
XXVIII
of
1971.

(1) after clause (a), the following clause shall be inserted, namely:—

"(a-a) "Appellate Authority" means the Appellate Authority appointed by the State Government under section 35;";

(2) after clause (c), the following clauses shall be inserted, namely:—

"(c-a) "Developer" means a Developer registered under section 3B;

"(c-b) "eligible slum dweller" means a slum dweller who fulfills such criteria of eligibility as may be prescribed, from time to time, and is declared so eligible by the Competent Authority;

"(c-c) "Grievance Redressal Committee" means the Grievance Redressal Committee constituted under section 35;";

(3) after clause (h-d), the following clause shall be inserted, namely:—

"(h-e) "Slum Rehabilitation Work" means the work relating to demolition of any structure or any part thereof in slum area or Slum Rehabilitation Area, and construction of a new building thereon;";

Amendment
of section
3B of Mah.
XXVIII of
1971.

3. In section 3B of the principal Act, after sub-section (4), the following sub-section shall be added, namely:—

"(5) For the purposes of this Chapter, the State Government may register any person or an association of persons, or a partnership firm registered under the Partnership Act, 1932 or a company registered under the Companies Act, 1956, as a Developer in the prescribed manner."

IX of
1932.
1 of
1956.

Amendment
of section
3C of Mah.
XXVIII of
1971.

4. In section 3C of the principal Act, after sub-section (2), the following sub-section shall be added, namely:—

"(3) On the completion of the Slum Rehabilitation Scheme, the Slum Rehabilitation Area shall cease to be such area."

Amendment
of section
3D of Mah.
XXVIII of
1971.

5. In section 3D of the principal Act, in clause (e),—

(1) sub-clause (i-a) shall be deleted;

(2) sub-clause (iii) shall be deleted;

(3) in sub-clause (vii), for paragraph (A), the following shall be substituted, namely:—

"(A) after the words "in respect of any matter which" the words "the Slum Rehabilitation Authority," shall be inserted;";

Amendment
of section
3E of Mah.
XXVIII of
1971.

6. The existing section 3E of the principal Act shall be renumbered as sub-section (1) thereof; and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:—

"(2) If the tenement is transferred by the allottee in contravention of the provisions of sub-section (1), the Competent Authority shall, by order, direct the eviction of the person in possession of such

tenement in such manner and within such time as may be specified in the order, and for the purpose of eviction, the Competent Authority may use or cause to be used such force as may be necessary :

Provided that, before issuing any order under this sub-section, the Competent Authority shall give a reasonable opportunity to such person to show cause why he should not be evicted therefrom.”.

7. In section 4 of the principal Act, to sub-section (1), the following *Explanation* shall be added, namely :—

Amendment of section 4 of Mah. XXVIII of 1971.

“*Explanation.*—For the purposes of clause (b), the expression “buildings” shall not include,—

(a) cessed buildings in the island City of Mumbai as defined in clause (7) of section 2 of the Maharashtra Housing and Area Development Act, 1976, or old buildings belonging to the Corporation ;

Mah. XXVIII of 1977.

(b) buildings constructed with permission of the relevant authority at any point of time ;

(c) any building in an area taken up under the Urban Renewal Scheme.”.

8. In section 14 of the principal Act,—

Amendment of section 14 of Mah. XXVIII of 1971.

(a) in sub-section (1), for the words “to execute any work of improvement in relation to any slum area or any building in such area or to redevelop any clearance area, it is necessary that any land” the words “to execute any work of improvement or to redevelop any slum area or any structure in such area, it is necessary that such area, or any land” shall be substituted ;

(b) in the proviso, for the word “Collector”, wherever it occurs, the words “Competent Authority” shall be substituted.

9. After section 15 of the principal Act, the following section shall be inserted, namely :—

Insertion of section 15A in Mah. XXVIII of 1971.

“15A. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, on completion of rehabilitation component of the Slum Rehabilitation Scheme implemented on the plot of land belonging to the State Government, the Municipal Corporation, the Municipal Council or the Maharashtra Housing and Area Development Authority, as the case may be, duly sanctioned by the Slum Rehabilitation Authority, the Chief Executive Officer of the Slum Rehabilitation Authority, after consultation with the land owning Authority, shall declare, within thirty days from the completion of the rehabilitation component of the Scheme, by a notification in the *Official Gazette*, that such land shall vest in the Slum Rehabilitation Authority :

Vesting of land under Slum Rehabilitation Scheme.

Provided that, the provisions of this section shall apply to the Slum Rehabilitation Scheme situated within the jurisdiction of the *Brihan Mumbai* only if, the Slum Rehabilitation Authority has obtained no objection as envisaged under regulation 33(10) and clause 2.8 of the Appendix IV, appended to the Development Control Regulations for Brihan Mumbai, 1991.

(2) The State Government, the Municipal Corporation, the Municipal Council or the Maharashtra Housing and Area Development Authority, as the case may be, shall, in respect of the Slum Rehabilitation Scheme under sub-section (1), be entitled to receive from the Slum Rehabilitation Authority a compensation as determined under section 17.

(3) The Slum Rehabilitation Authority shall recover the amount of compensation paid by it under sub-section (2), from the Developer of the Slum Rehabilitation Area or from the person in whose favour it executes the lease of such land.

(4) The Slum Rehabilitation Authority, subject to such terms and conditions as it may consider expedient for securing the purposes of this Act, shall lease that part of the land on which rehabilitation component of the Slum Rehabilitation Scheme has been constructed, to the Co-operative Society of the slum dwellers on thirty years' lease at such annual lease rent as may be prescribed from time to time, and such lease shall be renewable for a further period of thirty years on the same terms and conditions.

(5) The Slum Rehabilitation Authority, subject to such terms and conditions as it may consider expedient for securing the purposes of this Act, shall lease that part of land on which free sale component of the Slum Rehabilitation Scheme shall be constructed, or is being constructed, to the Developer of such Scheme or to the Organisation or Association or Company or Co-operative Society formed by the purchasers of such free sale area on thirty years' lease at such annual lease rent as may be prescribed from time to time, and such lease shall be renewable for a further period of thirty years on the same terms and conditions."

Insertion of section 33A in Mah. XXVIII of 1971.

10. After section 33 of the principal Act, the following section shall be inserted, namely:—

Procedure for allotment of tenements to slum dwellers not willing to join the Scheme or Project.

"33A. In respect of the slum dwellers, who are in possession or occupation of the building or structure which is part of the Slum Rehabilitation Scheme or Slum Redevelopment Project and who are held eligible for permanent alternate accommodation by the Competent Authority and who do not join such Scheme or Project willingly, the Competent Authority shall,—

(a) ensure that provision for permanent alternate accommodation for all such slum dwellers is made in the buildings to be constructed for rehabilitation component of the Scheme or Project ;

(b) communicate in writing to such slum dwellers that tenement would be given to them by way of allotment by drawing lots on the same basis as communicated by the Developer to those who have joined the Scheme or Project ;

(c) communicate to such slum dwellers that the transit tenement of 120 square feet would be allotted to them on the amount of rent fixed by the Slum Rehabilitation Authority ;

(d) cause the Chief Executive Officer, or any officer designated by him, to direct the eviction of such slum dwellers from the structure under their occupation and effect demolition of such structure or any part thereof in such manner and within such time as may be specified in the order, and for the purpose of such eviction, may use or cause to be used such force as may be necessary ;

(e) communicate in writing to such slum dwellers against whom action under clause (d) is proposed that, after such action they shall not be eligible for transit tenement or for the reconstructed tenement by lots, but, shall be entitled only to what is available after others have chosen their tenements in the Scheme or Project ;

(f) communicate in writing to such slum dwellers that, if they do not join till the building permission to the first building of the Scheme or Project is given, they shall lose the right to any built-up tenement, and their tenements shall be taken over by the Slum Rehabilitation Authority, and used for the purpose of accommodating other slum dwellers who cannot be accommodated in-situ, and they shall be entitled to only pitch of about 3 mtrs. x 3.5 mtrs. elsewhere, if and when available, and construction thereon shall have to be done by such slum dwellers on their own.”.

11. In section 35 of the principal Act,—

Amendment
of section
35 of Mah.
XXVIII of
1971.

(a) in sub-section (1), for the word “Administrator” the words “Appellate Authority who shall be a person holding a post not below the rank of Additional Collector, to be notified by the State Government,” shall be substituted ;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) Any person,—

(a) aggrieved by any notice, order or directions issued or given by the Appellate Authority under sub-section (1), within a period of thirty days from the date of issue of such notice, order or direction ;

(b) for the purpose of resolving dispute in relation to matters about eligibility of slum dweller, eligible slum dweller being

denied tenement, developer not undertaking and completing the project as per the permission and approval so also within the stipulated time frame, transit accommodation being unavailable or not provided and likewise,

may file an appeal before the Grievance Redressal Committee constituted by the State Government, by notification in the *Official Gazette*, for such area and consisting of the Chairperson and such number of members as the Government may deem fit. The qualifications of the Chairperson and the members of the Committee and the procedure to be followed for transacting its business shall be such as may be prescribed.”;

(c) in sub-section (5), for the word “ Administrator ” the words “ the Grievance Redressal Committee ” shall be substituted.

Amendment
of section
42 of Mah.
XXVIII of
1971.

12. In section 42 of the principal Act, for the word “ Administrator, Competent Authority ” the words “ Appellate Authority, Competent Authority, Grievance Redressal Committee ” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXVIII of 1971) has been enacted to make better provisions for the improvement, clearance and redevelopment of slum areas in the State and for the protection of occupiers from eviction and distress warrants.

2. To ensure proper and effective implementation of the provisions of the said Act and the Slum Rehabilitation Schemes with more clarity, the following amendments are proposed, namely :—

(i) Amendment has been proposed to section 2 of the said Act with a view to define the terms Appellate Authority, Developer, eligible slum dwellers, Grievance Redressal Committee and Slum Rehabilitation Work ;

(ii) In view of the observations of the Hon'ble High Court in W.P. No. 1326/2007 *Tulsiwadi Navnirman Co-operative Housing Society Limited and others v/s. State of Maharashtra and others*, a Grievance Redressal Committee is proposed to be constituted under section 35 of the said Act to redress various grievances regarding Slum Rehabilitation Schemes where no appeal is provided ;

(iii) Pursuant to the observations of the Hon'ble High Court in P.I.L. No. 119 of 2009 *Janhit Manch and others v/s. State of Maharashtra and others*, a provision has been proposed for eviction of occupants of tenements which are transferred by way of sale, gift, exchange, lease, or otherwise before the expiry of ten years of allotment by the allottee under the Slum Rehabilitation Scheme ;

(iv) It is proposed to insert in the said Act the provisions regarding the vesting of Government and Semi-Government lands in the Slum Rehabilitation Authority after completion of the rehabilitation component of the Scheme and after consultation with the respective authorities for onward leasing of it to the Co-operative Societies of the residents under Slum Rehabilitation Scheme and in case of free sale component to the Organisation or Association or Company or Co-operative Society formed by purchasers who have been nominated by the Developer ;

(v) Section 35 of the said Act is proposed to be amended to provide for an appeal before the Appellate Authority against the order passed by the Competent Authority with a view to expedite the disposal of complaints and appeals. It is also proposed to provide for a second appeal before the Grievance Redressal Committee against the order of the Appellate Authority.

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3. The Bill seeks to amend the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXVIII of 1971) to achieve the above objectives.

Mumbai,

PRITHVIRAJ CHAVAN

Dated the 9th April 2011.

Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 2.—Under this clause, which seeks to insert clause (c-b) in section 2 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, power is taken to the State Government to prescribe the eligibility criteria for declaring a slum dweller as an eligible slum dweller for the purposes of the Slum Rehabilitation Scheme.

Clause 3.—Under this clause, which seeks to add a new sub-section (5) to section 3B of the said Act, power is taken to the State Government to prescribe the manner of registration of a Developer.

Clause 9.—Under this clause, which seeks to insert a new section 15A in the said Act,—

(a) under sub-section (1), power is taken to the Chief Executive Officer to declare within thirty days from the completion of the scheme, by notification in the *Official Gazette*, that the land shall vest in the Slum Rehabilitation Authority ;

(b) under sub-section (4), power is taken to the State Government to prescribe annual lease rent at which the Slum Rehabilitation Authority shall lease that part of land on which the rehabilitation component of the Slum Rehabilitation Scheme has been constructed, to the Co-operative Society of the slum dwellers ;

(c) under sub-section (5), power is taken to the State Government to prescribe annual lease rent at which the Slum Rehabilitation Authority shall lease that part of land on which free sale component of the Slum Rehabilitation Scheme shall be constructed, or is being constructed to the Developer of such Scheme or to the Organisation or Association or Company or Co-operative Society formed by purchasers of such free sale area.

Clause 11.—Under this clause, which seeks to amend section 35 of the said Act, power is taken to the State Government,—

(a) under sub-section (1), to notify the Appellate Authority who shall be a person holding a post not below the rank of Additional Collector ;

(b) under clause (b) of sub-section (1A), to constitute, by notification in the *Official Gazette*, the Grievance Redressal Committee for resolving the disputes about eligibility of slum dwellers, eligible slum dwellers being denied tenement, developer not undertaking and completing the project as per the permission and approval within the stipulated time frame, and to prescribe the qualifications of the Chairperson and the members of the Committee and the procedure for transacting the business of the Committee.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

The Bill involves proposal for appointment of an Appellate Authority and constitution of the Grievance Redressal Committee. The Appellate Authority and Chairperson and members of the Grievance Redressal Committee will be appointed from amongst the Government Officers already working in different capacities by giving them *ex officio* responsibility of the above positions. They will not be paid any extra remuneration for the discharge of the above-mentioned statutory responsibilities. In this regard, the administrative expenditure on account of stationery, computers, meeting hall, and other recurring and non-recurring expenditure will be borne from the funds available with the Slum Rehabilitation Authority.

Thus, no recurring or non-recurring expenditure from the Consolidated Fund of the State would be involved on enactment of the Bill into an Act of the State Legislature.