

Maharashtra Village Panchayats And The Maharashtra Regional And Town Planning (Amendment) Act, 2014

43 OF 2014

[29 December 2014]

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Maharashtra Village Panchayats And The Maharashtra Regional And Town Planning (Amendment) Act, 2014

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An Act further to amend the Maharashtra Village Panchayats Act and the Maharashtra Regional and Town Planning Act, 1966.

WHEREAS it is expedient further to amend the Maharashtra Village Panchayats Act and the Maharashtra Regional and Town Planning Act, 1966 for the purposes hereinafter appearing; it is hereby enacted in the Sixty-fifth Year of the Republic of India as follows :-

CHAPTER 1 PRELIMINARY

1. Short title and commencement. :-

(1) This Act may be called the Maharashtra Village Panchayats and the Maharashtra Regional and Town Planning (Amendment) Act, 2014.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint and different dates may be appointed for different sections of this Act.

CHAPTER 2 AMENDMENTS TO THE MAHARASHTRA VILLAGE PANCHAYATS ACT

2. Amendment of section 52 of III of 1959. :-

In section 52 of the Maharashtra Village Panchayats Act (hereinafter referred to as "the Village Panchayats Act"), -

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :-

" (i) In the village, for which a draft Regional plan or final Regional plan has been published under the provisions of the Maharashtra Regional and Town Planning Act, 1966, no person shall erect or re-erect or commence to erect or re-erect any building,-

(i) in the gaathan area of the village, within the meaning of clause (10) of section 2 of the Maharashtra Land Revenue Code, 1966, without obtaining the previous permission of the panchayat, in the prescribed manner;

(ii) in other areas of the village, without obtaining the previous permission of the Collector or any other officer, not below the rank of Tahsildar to whom the powers of the Collector are delegated.

(1A) In the village for which a draft Regional plan or final Regional plan has not been published, no person shall erect or re-erect or commence to erect or re-erect any building, without obtaining the previous permission of the panchayat in the prescribed manner.

(2) Any permission under sub-section (1) or sub-section (1A), as the case may be, shall be granted by the panchayat, upon an application made for this purpose, only after obtaining the prior approval of the Town Planning Officer of the State Government,

posted at the Panchayat Samiti level or, in case, no such officer has been posted at the Panchayat Samiti level, the Town Planning Officer at the Zilla Parishad level.

(2A) If the panchayat fails to communicate its permission or refusal in respect thereof, within sixty days from the date of receipt of such application or, within sixty days from the date of receipt of the reply from the applicant, in respect of the requisition, if any, made by the panchayat, whichever is later, such permission shall be deemed to have been granted to the applicant, on the day immediately following the expiry of the said period of sixty days :

Provided that, such permission shall be deemed to have been granted subject to the condition that, the erection or re-erection or commencement of erection or re-erection of any building, shall be in strict conformity with the relevant Development Control Regulations or the draft of final Regional plan, as the case may be, in accordance with the provisions of the Maharashtra Regional and Town Planning Act, 1966 or any bye-laws or regulations framed under any other law for the time being in force :

Provided further that, any erection or re-erection or commencement of erection or re-erection of any building, in contravention of the preceding proviso, shall be deemed to be unauthorised development.

(2B) Any applicant aggrieved by an order granting permission on conditions or for refusing permission under sub-section (1) or (1A), as the case may be, may within forty days from the date of communication of the order to him, prefer an appeal to the District Head of the Town Planning Department posted at the Zilla Parishad. The appeal shall be in such form and shall bear such court-fees as may be prescribed. Such District Head, after giving an Appellant a reasonable opportunity of being heard, may by order, passed within a period of ninety days from the date of receipt of appeal, either allow the appeal unconditionally or subject to such conditions, as he may deem fit, or reject the appeal. The decision of the District Head on such appeal shall be final and binding on all concerned.

(2C) Notwithstanding anything contained in any Judgment, order or decree of any court, on and with effect from the date of commencement of the Maharashtra Village Panchayats and the Maharashtra Regional and Town Planning (Amendment) Act, 2014, the Maharashtra Village Panchayats (Extension of Village Sites) Rules, 1967 shall, stand repealed.

(2D) On and with effect from the date of commencement of the

Maharashtra Village Panchayats and the Maharashtra Regional and Town Planning (Amendment) Act, 2014, until the rules, under this section are made, the Standardised Development Control and Promotion Regulations for Regional Plans in Maharashtra, framed under sub-section (4) of section 20 of the Maharashtra Regional and Town Planning Act, 1966, in respect of grant of permission to erect or re-erect the buildings shall apply.";

(b) In sub-section (3), for the words, brackets and figures "sub-section (1) or (2)" the words, brackets, figures and letters " sub-sections (2), (1A), (2), (2A) or (2B)" shall be substituted.

3. Amendment of section 53 of III of 1959. :-

In section 53 of the Village Panchayats Act, in sub-section (2), for the words "within the limits of the village", the words "within the limits of the gaathan area of the village" shall be substituted.

4. Amendment of section 176 of III of 1959. :-

In section 176 of the Village Panchayats Act, in sub-section (2), after clause (xii), the following clause shall be inserted, namely :-
"(xii-1a) under sub-sections (2) and (1A) of section 52, prescribing the manner in which permission to erect or re-erect or commence to erect or re-erect any building shall be obtained; and under sub-section (2B) thereof, prescribing the form of appeal and the court-fees to be paid alongwith the appeal;"

CHAPTER 3 AMENDMENTS TO THE MAHARASHTRA REGIONAL AND TOWN PLANNING ACT, 1966

5. Amendment of section 2 of Mah. XXXVII of 1966. :-

In section 2 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the Regional and Town Planning Act"), -

(a) after clause (5), the following clause shall be inserted, namely:-
"(5A) "compounded structure" means an unauthorized structure, in respect of which the compounding charges as levied by the Collector under the provisions of sub-section (2B) of section 18 are paid by the owner or occupier of such structure and which, upon such payment, has been declared as such by the Collector;"

(b) after clause (13C), the following clause shall be inserted, namely:-

"(13D) "Integrated Township Project" means an Integrated

Township Project declared under section 18 or 44 , as the case may be;";

(c) clause (30A) shall be deleted.

6. Amendment of section 14 of Mah. XXXVII of 1966. :-

In section 14 of the Regional and Town Planning Act, after clause (k), the following clause shall be added, namely :-

"(l) Provisions for permission to be granted for controlling and regulating the use and development of land within the jurisdiction of a local authority or the Collector, as the case may be, including imposition of fees, charges and premium, at such rate as may be fixed by the State Government or the Planning Authority, from time to time, for grant of an additional Floor Space Index or for the special permissions or for the use of discretionary powers under the relevant Development Control Regulations, and also for imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the location, number, size, height, number of storeys and character of buildings and density of population allowed in a specified area, the use and purposes to which buildings or specified areas of land may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable users of land in any area in reasonable periods, parking space and loading and unloading space for any building and the sizes of projections and advertisement signs and hoardings and other matters as may be considered necessary for carrying out the objects of this Act."

7. Amendment of section 18 of Mah. XXXVII of 1966. :-

In section 18 of the Regional and Town Planning Act, -

(a) for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) No person shall, on or after the publication of the notice that the draft Regional plan has been prepared or the draft Regional plan has been approved, institute or change the use of any land for any purpose other than agriculture or carry out any development in respect of any land without the previous permission,-

(i) in case the land is situated in the limits of a Municipal Corporation or a Municipal Council, or a Nagar Panchayat or a Special Planning Authority or any other planning authority, of such Municipal Corporation or Municipal Council, Nagar Panchayat or Special Planning Authority or other planning authority , as the case

may be, or

(ii) in case the land is situated in the gaothan, within the meaning of clause (10) of section 2 of the Maharashtra Land Revenue Code, 1966, of the village panchayat concerned, or

(iii) in case the land is situated in areas other than those mentioned in clauses (i) and (ii) above, of the Collector of the District:

Provided that, the Collector may delegate his powers under this clause to an officer not below the rank of Tahsildar.

Explanation.-For the removal of doubt, it is hereby declared that, no such permission of the Collector shall be required in the gaothan area of a revenue village within the meaning of clause (10) of section 2 of the Maharashtra Land Revenue Code, 1966.";

(b) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) Notwithstanding anything contained in any other law for the time being in force, the Village Panchayat or, as the case may be, the Collector, in considering application for permission shall have due regard to the provisions of any draft or Regional plan or proposal published by means of a notice under this Act.";

(c) after sub-section (2), the following sub-sections shall be inserted, namely :-

" (2A) (i) The provisions of sections 52, 53, 54, 55, 56, 57 and 58 shall apply mutatis mutandis to the unauthorized development carried out in the area of Regional plan, as they apply to the unauthorized development carried out in the area of a Planning Authority; and

(ii) the Collector shall be the authority Competent to take action in respect of such unauthorized development.

(2B) Notwithstanding anything contained in this Act or any other law for the time being in force, the State Government may, upon a request made by the Collector, specify the terms and conditions on compliance of which and the compounding charges on payment of which the Collector may declare an unauthorized structure to be a compounded structure :

Provided that, on declaration of an unauthorized structure as compounded structure, the proceedings under any law for the time being in force against such structure initiated by the Collector shall stand abated, and if such proceedings are yet to be initiated, no proceedings shall be maintainable:

Provided further that, no further construction shall be permissible in any compounded structure, other than repairs and maintenance, and any redevelopment or reconstruction of such structure shall be

only as per the provisions of the prevailing Development Control Regulations.";

(d) in sub-section (3), for the words "a Special Township Project", at both the places where they occur, the words "an Integrated Township Project" shall be substituted.

8. Amendment of section 20 of Mah. XXXVII of 1966. :-

In section 20 of the Regional and Town Planning Act,-

(a) in sub-section (2), for the words "balanced development" the word "development" shall be substituted;

(b) in sub-section (4), -

(i) after the words "as it may think fit", the words "or decide not to accord approval" shall be inserted;

(ii) for the portion beginning with the words "has been approved." and ending with the words "The notice", the following shall be substituted, namely :-

"has been approved with or without amendment or has not been approved, as the case may be. In case the modification is approved, then such notification".

9. Amendment of section 37 of Mah. XXXVII of 1966. :-

In section 37 of the Regional and Town Planning Act, in sub-section (1),-

(a) the words " is of such a nature that it will not change the character of such Development plan " shall be deleted;

(b) for the words " to the State Government for sanction.", the following shall be substituted, namely :-

"to the State Government for sanction within one year from the date of publication of notice in the Official Gazette. If such modification proposal is not submitted within the period stipulated above, the proposal of modification shall be deemed to have lapsed :

Provided that, such lapsing shall not bar the Planning Authority from making a fresh proposal".

10. Amendment of section 37A of Mah. XXXVII of 1966. :-

In section 37A of the Regional and Town Planning Act,-

(a) for the words "and religious functions", the words " , religious functions and public meetings" shall be substituted;

(b) for the words and figures " in any case not exceeding 30 days

in the aggregate, in a calendar year", the words "in any case not exceeding forty-five days in the aggregate, in a calendar year" shall be substituted;

(c) the following proviso shall be added, namely :-

" Provided that, temporary use of any plot of land, reserved, designated or allocated for the purpose of play-ground, for management of any disaster or emergency such as Helipad or other essential use, shall also not be deemed to be a change of user."

11. Amendment of section 44 of Mah. XXXVII of 1966. :-

In section 44 of the Regional and Town Planning Act, in sub-section (2), for the words "a Special Township Project", at both the places where they occur, the words "an Integrated Township Project" shall be substituted.

12. Amendment of section 46 of Mah. XXXVII of 1966. :-

To section 46 of the Regional and Town Planning Act, the following provisos shall be added, namely :-

"Provided that, if the Development Control Regulations for an area over which a Planning Authority has been appointed or constituted, are yet to be sanctioned, then in considering application for permission referred to in sub-section (1), such Planning Authority shall have due regard to the provisions of the draft or sanctioned Regional plan, till the Development Control Regulations for such area are sanctioned :

Provided further that, if such area does not have draft or sanctioned Regional plan, then Development Control Regulations applicable to the area under any Planning Authority, as specified by the Government by a notification in the Official Gazette, shall apply till the Development Control Regulations for such area are sanctioned."

13. Amendment of section 124J of Mah. XXXVII of 1966. :-

In section 124 J of the Regional and Town Planning Act, for sub-section (3), the following sub-section shall be substituted, namely :-

" (3) The money credited from time to time, to the said Fund, shall be utilized only for the purposes of acquisition and development of any land reserved for any of the public purposes specified in any plan or scheme under this Act and for providing public amenities in

the area under the jurisdiction of the said Authority and maintenance and improvement thereof. ".

14. Insertion of section 124K-1 in Mah. XXXVII of 1966. :-

After section 124K of the Regional and Town Planning Act, the following section shall be inserted, namely:-

Provisions of sections 124A to 124K also to apply in certain cases.

"124K-1. Notwithstanding anything contained in the draft or final Regional plan, the provisions of sections 124A to 124K shall apply, mutatis mutandis, to cases where the permission to carry out the development is required under clause (ii) or (iii) of sub-section (1) of section 18 :

Provided that, the development charge collected under this section shall be assigned to the Village Panchayat, within whose limits the land proposed to be developed is situated. The amount so collected and assigned shall be utilised by the Village Panchayat, to provide or develop basic amenities and infrastructure." .

15. Amendment of section 154 of Mah. XXXVII of 1966. :-

In section 154 of the Regional and Town Planning Act, for subsection (i), the following sub-section shall be substituted, namely:-

"(i) Notwithstanding anything contained in this Act or the rules or regulations made thereunder, the State Government may, for implementing or bringing into effect the Central or the State Government programmes, policies or projects or for the efficient administration of this Act or in the larger public interest, issue, from time to time, such directions or instructions as may be necessary, to any Regional Board, Planning Authority or Development Authority and it shall be the duty of such authorities to carry out such directions or instructions within the time-limit, if any, specified in such directions or instructions.".

16. Amendment of section 156 of Mah. XXXVII of 1966. :-

To section 156 of the Regional and Town Planning Act, the following proviso shall be added, namely:-

"Provided that, the development which has been duly permitted or deemed to have been permitted by the concerned Village Panchayat within the area of the gaathan or the gunthewari development which has been regularized in accordance with the

provisions of the Maharashtra Gunthewari Developments (Regularisation, Upgradation and Control) Act, 2001, shall not be treated as unauthorised development under this Act."

17. Amendment of section 159 of Mah. XXXVII of 1966. :-

In section 159 of the Regional and Town Planning Act, for subsection (2), the following sub-sections shall be substituted, namely:-

"(2) Subject to the provisions of this Act, the State Government may, by notification in the Official Gazette, make Special Development Control Regulations consistent with this Act and the rules made thereunder, for the purpose of implementing any Scheme, Project, Programme or Policy, of the Central or the State Government, in the whole or a part of the State.

(3) The State Government shall, before making such Regulations prepare a draft thereof and publish a notice in the Official Gazette stating the draft Regulations have been prepared. The notice shall state that the names of the places where a copy of such draft Regulations shall be available for inspection by the public at all reasonable hours mentioned therein and the copies thereof or any extract therefrom, certified to be correct, shall be available for sale to the public at a reasonable price; and invite objections and suggestions from any person with respect to the draft Regulations before such date as may be specified in the notice. The notice shall also be published in at least two newspapers having wide circulation in the area to which the Regulations are to be made applicable and also in such other manner as the State Government may think fit.

(4) After considering the objections and suggestions received by it, the State Government may approve such draft Regulations with modifications or without modifications, if any, as it may think fit, or decide not to approve the same and shall publish a notification in the Official Gazette stating that the Regulations have been approved with or without modifications or have not been approved, as the case may be. In case the Regulations are approved, the notification shall specify therein the date on which the Regulations shall come into operation.

(5) Where Special Development Control Regulations are made, the provisions of such Regulations shall be in force in the area to which such Regulations are made applicable and the provisions of any plan or scheme applicable to and in force in such area or part

thereof, prior to the date of coming into force of such Regulations under sub-section (4) shall, to the extent of the provisions contained in such Regulations, stand modified.".