

MUNICIPAL CORPORATION OF GREATER MUMBAI

NO. CHE / 1943 / DP / GEN of 15-01-2011

CIRCULAR

Sub : Action to be initiated by Building Proposal Department / Ward offices for expeditious demolition of unauthorised works / structures

It has come to the notice of Municipal Commissioner that detection of unauthorised works is not being made scrupulously by the concerned staff and as a result unauthorised work go ahead unnoticed and get detected only on receipt of complaints. At the same time, in respect of Building Proposal Department, it is observed that some works are noticed to be carried out beyond the scope of approved plan and the Commencement Certificate. It has come to notice that after detection of on-going unauthorised constructions, a notice under Section 354-A of M.M.C.Act is issued immediately, but the same is not followed up with actual demolition and the unauthorised construction continues. After sometime, notice under Section 53(1) of M.R.&T.P.Act is issued asking the party / developer to restore the work to the original status, but no action is taken under Section 53(6)(b), when he fails to do so, only a routine letter under Section 53(7) is sent to Police for initiating criminal prosecution for non-compliance of orders under Section 53(1). This is highly objectionable. It does not deter unauthorised construction activity but indeed abets it. Seemingly, action is taken under Section 354-A of M.M.C.Act and Section 53(1) of M.R.&T.P.Act, without any effect on unauthorised construction activity. Correct action would have been to demolish the unauthorised work under Section 354-A of M.M.C.Act, if the developer fails to prove in next 24 hours that he had the requisite permission.

Whereas, in case of Wards after issuing notice under Section 354-A of the M.M.C. Act, the same is generally followed by notice under Section 351 of the M.M.C.Act. without taking any action of demolition if required under Section 354-A of M.M.C.Act.

The Municipal Commissioner has also observed that the erring parties i.e. accused do not take cognizance of the notice under Sec 354-A and subsequent notices issued under Section 53(1) of M.R.&T.P.Act or Section 351 of the M.M.C.Act as the case may be and continue with the unauthorised work. This is highly objectionable and action is only on paper. This practice is required to be stopped forthwith.

The Ward Offices and the Building Proposal department are therefore, directed to adhere to the following procedure in respect of constructions carried out without permission or in violation of building permission given by taking action under provisions of Section 354-A of M.M.C.Act as well as Section 53(6)(b) of M.R.&T.P. Act :

- 1) The Building Mukadams posted in Building Proposal Department shall take every day round in their respective section and report to the concerned Sub-Engineer and Asstt. Engineer about detection of such unauthorised work carried out by the Developer beyond the scope of approval and the Commencement Certificate granted.
- 2) The Sub-Engineer of Building Proposal Department on getting the intimation from their Building Mukadam regarding the surplus work carried out beyond the scope of approved plan, Commencement Certificate shall immediately initiate action under section 354A of M.M.C. Act directing the developer to stop the work within 24 hours.
- 3) The Asstt. Engineer of Building Proposal Department shall seek the approval of Executive Engineer, the approving authority of plans for demolishing such works carried out beyond approval / C.C. by seeking help in the form of manpower and machinery from the concerned ward office and also seek necessary police force (if required) for carrying out the demolition of such work without any hindrance or obstruction from the developer. This action must be completed within 3-4 days after issuing the notice under Section 354-A.

- 4) The section 354A of the M.M.C. Act allows the administration to undertake the demolition of any structure under construction if no documentary evidence is produced on serving of the notice and as such supplementing notice under section 53(1) of the M.R. & T. P. Act and intimation to Police authority etc. is unwarranted.
- 5) For effecting the demolition, the Building Proposal Department shall give 24 hours notice to the concerned developer and on completion of such notice period, the demolition shall be undertaken.
- 6) The concerned Architect / Licence Surveyor for the building proposal will be held responsible, if the work is found carried out beyond the approval / CC granted by his client and if the Architect / Licence Surveyor has not made any attempts to stop his client from carrying out such work, licence granted to such erring Licence Surveyor will be summarily suspended and in case of Architects, the Council of Architecture, New Delhi will be requested to take action for professional misconduct against such erring Architects.
- 7) In case of Wards, the procedure mentioned above shall be followed by Mukadams working in the ward for detection of unauthorized works Jr. Engineers and Sub-Engineers of the section shall confirm the same and after issuance of notice under section 354A demolish the same immediately as described above after 24 hours by taking approval of Asst. Commissioner.
- 8) If any of the structures are found occupied in either cases i.e. for Building Proposal cases or wards, notice under section 351 of the M.M.C. Act for wards and notice under section 353 A of M.M.C. Act in respect of Building Proposal shall be issued and pursued vigorously by following due process of law.
- 9) The demolition action to be undertaken shall not be stopped under any ground unless specifically directed by the Hon. Court or Additional Municipal Commissioner concerned and the Municipal Commissioner.
- 10) Any disobedience in following the above procedure will be treated as dereliction of duty on part of the Municipal staff and action as envisaged in the Municipal Service Rules will be initiated against such erring staff, which may be noted.
- 11) Approving authorities i.e. Executive Engineer of Building Proposal Department and Asstt. Commissioner of the Ward, as the case may be, will be personally held responsible if no action against such erring staff is taken.

This be given immediate effect.

Sd/- 15-1-2011

Director(E.S.&P.)

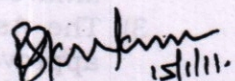
Sd/-15-1-2011

Municipal Commissioner

Copy to

- D.M.C.(Vig) / Dir.(E.S.&P.) / D.M.C.(I) / DMC(Z-_____)
- CH.E.(D.P.) / DY.CH.E.(D.P.)/II / DY.CH.E.(B.P.)CITY/ES/WS-I / II
- DY.CH.E.(P.P.P.P.) Asst. Comm A 20 I Ward /
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Copy forwarded for information and necessary action please.



Chief Engineer (D.P.)