

# MUNICIPAL CORPORATION OF GREATER MUMBAI

OFFICE OF THE DEPUTY CHIEF ENGINEER BLDG. PROP. WS-II

No. DyChEBP / 7921 / WS-II P&R of 16.01.2018

**Sub. :** Framing of policy for widening and prescribing R.L. of 9.15 mt. width to existing T.P. road/ Municipal Scheme roads / MHADA Layout roads in Mumbai.

**Ref. :-** 1. ChE/1136/Rds of 04.05.2012 at pg. C-1

2. Directives of Govt. in UD u/no. TPS-1813/3067/CR-112/MCORP/12/UD-13 dt. 16.11.2016 at pg. C-3/C-13

3. Minutes Hon. MC's meeting held on 07.12.2017 with PEATA, MCHI, NAREDCO dt. 19.12.2017 at pg. C-15/C-23

The issue of prescribing R.L. and framing a policy in continuation/by modification to policy circular u/no. ChE/1136/Rds of 04.05.2012 is being mullied over by municipal administration in view of directives of Govt. vide Note (i) below 5.4.1 of ref. 2 above and as minuted at sr. no. 6 of ref. 3 above.

The said circular discusses framing of policy based on provision of section 297(1)(a) and (b) of MMC Act, 1888 i.e para (1) and (2).

It is necessary to check provisions of MMC Act in respect of roads. As per sec. 291, produced below

*291. The Commissioner, when authorised by the corporation in this behalf may at any time*

*(a) lay out and make a new public street ;*

*(b) agree with any person for the making of a street for public use through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the corporation, and that such street shall become, on completion, a public street ;*

*(c) declare any street made under an improvement scheme duly executed in pursuance of the provisions of the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, to be a public street.*

However sec. 294 of MMC Act makes it mandatory that such road is minimum 40 feet (or 12.12 m) wide. Hence no road can be declared public street if less than forty feet.

Other relevant provision is sec. 306 of MMC Act, 1888 which reads as.

*306. (1) When any private street has been levelled, metalled or paved, sewerred, drained, channelled and made good to the satisfaction of the Commissioner, he may and, upon the request of the owner or of any of the owners of such street shall, if lamps, lamp-posts and other apparatus necessary for lighting such street have been provided to his satisfaction ;[and if all land-revenue*

payable to [the [State] Government] in respect of the land comprised in such street has been paid] by notice in writing put up in any part of such street, declare the same to be a public street, and thereupon the same become a public street:

(2) Provided that no such street shall become a public street if, within one month after such notice, has been put up, the owner of such street or of the greater part thereof shall, by notice in writing to the Commissioner, object thereto.

(3) Nothing in this section shall be deemed to affect the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879.

[with respect to (3) of 306 or sec. 292 of MMC Act, 1888, The Municipal Corporation of Greater Mumbai (MCGM) is the custodian of Government land entrusted to it under Section 91A of the Mumbai Municipal Corporation Act, 1888 (MMC Act) from the date on which the City of Bombay Municipal (Amendment) Act, 1933 came into operation. The Corporation works under the administrative control of the Urban Development Department, Government of Maharashtra. All the immovable and other properties and all other interest and rights of the Board of Trustees for the improvement of the city of Bombay constituted (prior to 1933) under the City of Bombay Improvement Trust Transfer Act, 1925, including all the estates, rights, titles and interest of the said Board in and to the lands specified in Schedule 'W' and 'V' (Section 89 A) were transferred to the Corporation.]

Any new public street can be defined under provisions of these sections. Also, roads already in existence as per Improvement Schemes approved under *City of Bombay Improvement Act, 1898*, or the *City of Bombay Improvement Trust Transfer Act, 1925* or roads in Municipal Schemes can be declared as new public street.

At par with these provisions, TP Scheme roads were required to be declared as public street. As per sec 302 of MMC Act, approval of MMC Act was required for TP Schemes and it is deemed that TP Schemes are approved under sec. 302 of MMC Act, 1888 and hence deemed to have been declared public street.

The para (1) of the circular dt.04.05.2012 therein discusses prescribing R.L. to T.P. roads based on provisions of section 297(1)(b) and para (2) of the circular covered both section 297(1)(a) and (b).

The provision of section 297(1)(a) include in its fold prescribing R.L. to any public street prescribed under any law in force.

T.P. Roads emerge out of the proceedings generated from the provisions of MR & TP Act, 1966, which are subsequent to MMC Act, fit into the situation of declaring scheme roads as public streets under section 291 (b) of MMC Act or treating at par with Improvement trusts roads under 291(c) of MMC Act, as it would be declared ever first time, before prescribing RL.

3

Most of the MHADA Layouts were approved by housing commissioner in the period from 1960 to 1970, may be as per the provisions of the MHADA Act. Now being amended by MCGM's approval.

In case the R.L. is required to MHADA Layout roads, **which are handed over to MCGM**, shall also be prescribed ever first time, the said activity shall also fall in the ambit of section 302 of MMC Act and then 306 of MMC Act, 1888 to deemed to have been declared as public street.

All Scheme roads of MCGM, are also duly approved under sec. 302 of MMC Act and now can be deemed to have been declared as Public Street under sec. 306 of MMC Act.

As regards traffic count and study, per Sec. 294 of MMC Act, 1888, no new road can be less than 40 feet. Hence for any new road w/sec. 291 or widening up to 12.12 m, traffic simulation study and traffic count may not be insisted.

It is therefore essential to modify circular dt. 04.05.2012 as below.

"1. All the roads shown in sanctioned T.P. Scheme, roads in MHADA layout handed over to MCGM, Municipal Scheme roads shall be treated deemed public street w/s. 306 of MMC Act 1888 and can be widened under w/sec. 297 (1)(a) of MMC Act, 1888.

2. All the R.L. Sanctioned w/sec. 297 (1)(a), 297(1)(b) or 291 of MMC Act, 1888 should advertised/notified/informed to public of that area suitably in 45 days

3. Traffic simulation study and traffic count study is mandatory for prescribing R.L. of width above 12.12m (forty feet) before processing any R.L. Proposals w/sec. 291, 297 (1)(a) & (b) of MMC Act, 1888"

In view of above Director ( E.S. & P.) A.M.C. (E.S.) / Hon. M.C.'s approval is requested to above changes and draft circular.

If approved, circular at pg. C- 25 , will be issued under signature of ChE(DP) / ChE(Rds & Tr) / Director (ES&P) / AMC(ES).

Submitted please.

Dy.ChE. (B.P.) WS-II

ChE. (D.P.)

Ch.E.(Roads & Traffic)

Director ( E. S. & P.)

Sec.

A.M.C. (E.S.)

Sec.

Hon. M.C.

Sec.