

MAHARASHTRA GOVERNMENT
URBAN DEVELOPMENT DEPARTMENT
Government Resolution Number: NAJAK 2018/C.R. 51/ NAJAKDHA-1
Hutatma Rajguru Chowk, Madam Kama Marg,
Mantralaya, Mumbai 400032
Date: - 1st August 2019

Reference:-

- 1) Government Resolution Number NAJAKA 2017/C.R. 63/NAJAKDHA-2, Date 16.06.2017.
- 2) Honourable Courts order dated 03.09.2014 of Writ petition number 9872/2010
- 3) A report of two member committee dated 9.8.2018
- 4) Supreme Court's order on Civil Appeal number 558/2017 dated 02.07.2019

Introduction:-

Central Government has abolished Urban Land (Ceiling and Regulation) act, 1976 by Urban Land (Ceiling and Regulation) Repeal act, 1999. As per above said Repeal act's section 20 exemption orders are given that, land acquired for various purposes according to Urban Land (Ceiling and Regulation) act section 10(3) and 10(5) is protected. State Government has accepted this Repeal act on 29.11.2007

2. On the background of protected provisions of above said Repeal act are challenged in front of the Honourable Bombay High Court's complete bench, in the writ petition number 9872/2010 (Maharashtra Chamber of Housing Industries Vs Maharashtra Government and others) on the date 3.9.2014 Honourable Court gave decision that exemption orders under Urban Land's (Ceiling and Regulation) section 20 and proceedings under it are protected and as per exemption orders implementation of approved schemes on the various regions are mandatory for concern planners. This order has been challenged by Maharashtra Chamber of Housing Industries and others with Special Leave Petition number 29006/2014. In this as per interim orders dated 10.11.2014 Honourable High Court said that no coercive action should be taken against scheme holders.

3. On this background scheme holders are not keen to implement schemes as per terms and conditions under exemption orders under section 20, government has received request statements for making inclusive policy about exempted land similarly demands received for sanction of redevelopment buildings constructed on exempted land, considering all these things, according to promise given in the discussion of the rainy session of Maharashtra legislative assembly in 2016, to suggest steps to complete hang on projects and to avail land for development which is under exemption orders, two member committee of Shri. B. N. Shrikrishna, retired Judge, Hon. Supreme court and Shri. B. N. Makhija, retired Secretary, Maharashtra Government is established according to Government Resolution dated 16.6.2017.

4. This committee understood the opinions of various institutions/persons on the subject by giving advertisements in the newspaper. Request statements received by this committee,

various court decisions about the subject of Urban Land Act (ceiling and regulation), Government work procedure as well as various problems in implementation of the schemes and different measures taken for it, by considering all these things this committee gave recommendations on 9.8.2018. Meeting of Ministers was held on 18.11.2018 to discuss about the recommendations of the committee and it has been decided to principally accept these recommendations and to put forward these recommendations along with government's standpoint in the Hon. Supreme Court and act according to directions of court.

Government Resolution:-

1. In this case recommendations of two member committee, Government's standpoint about it and consent terms are presented in front of Hon. Supreme Court by Civil Appeal number 558/2017. Considering all these things while disposing civil appeal number 558/2017 and I. A. number 19706/2019, 92357/2019 and 36257/2019, Hon. Supreme Court has given permission to act as per the recommendations of two member committee on 02.07.2019. Hence considering said recommendations and order of Hon. Supreme Court, according to section 20 of Urban Land Act (ceiling and regulation) to develop region under various exemption scheme government is taking decision as follows.
 - A. According to order under section 20 of Urban Land Act (ceiling and regulation), exemption is given for housing construction, Talegaon-Dabhade plot development scheme, Agriculture, Animal husbandry, Garden etc. For total area noted in such order (maximum area mentioned in the order except any deductions) by paying 10% of surcharge of current annual market rate chart in lump sum, permission is granted to make available such land to developer for residential purposes. However, in any condition ceiling for area of apartments which are developed from such original plot should be up to 80 square meter carpet.
 - B. According to order under section 20 of Urban Land Act (ceiling and regulation), exemption is given for industrial purposes. For total area noted in such order (maximum area mentioned in the order except any deductions) by paying 15% of surcharge of current annual market rate chart in lump sum, such land is made available to scheme holder for industrial purposes as per the development control rules of development.
 - C. According to Urban Land Act (Ceiling and Regulation) the lands which are exempted for the gardening, open to sky and other purposes and over the time period such lands are included in to residential department, to avail such lands for residence creation, For total area noted in such order (maximum area mentioned in the order except any deductions) by paying 2.5% surcharge of current annual market rate chart in lump sum, permission is granted to make available such land to developer for development. However if carpet area index of such land has not been used earlier then for such area 10% surcharge of current annual market rate chart in lump sum, should be recovered from developer.
 - D. According to order under section 20 of Urban Land Act (ceiling and regulation) 1976, the land exempted for housing and scheme holder has completed construction of building according to terms and conditions of scheme, then residents of such building established registered cooperative housing society. If such buildings of cooperative housing society are worn out then for the redevelopment of such buildings, for the total area from orders of exemption by paying 2.5% of surcharge of current annual market rate chart in lump sum, permission is granted to redevelopment.

2. According to section 20 of the Urban Land Act (ceiling and regulation), by developing the land exempted for prescribed purposes and similarly by collection of surcharge from it, the scheme is being implemented with the purpose to create houses for low and middle income group people, for effective and impressive implementation of the scheme following terms and conditions are prescribed:-
- i. To avail benefit from this scheme to develop area exempted under section 20 of the Urban Land Act (ceiling and regulation), scheme holder should apply by developer/person who are authorised to do so with valid documents, to concerned District Collector and able authorised office with self attested copy of exemption order under section 20.
 - ii. By considering purpose of exempted land section 20 of the Urban Land Act (ceiling and regulation) and schemes noted under above said paragraph 1, the total area under schemes under A, B, C and D (maximum area mentioned in the order except any deductions) according to specified percentile of surcharge of current annual market rate chart should be recovered. Surcharge should be calculated (without any subtraction maximum area noted X current ready reckoner rate any one of 2.5%, 10% or 15%) and should be informed to applicant within 30 days of receipt of the application to submit that amount in government treasury under determined account head.
 - iii. Similarly in such case plot development and housing schemes sanctioned under section 20 of the Urban Land Act (ceiling and regulation), according to current government policy payable amounts for extension of period (punishable) should be recovered from scheme holder / scheme holder's developer in the limitation of the area they are developing in lump sum.
 - iv. The total area given concession under ULCH section 20 (maximum area mentioned without any deduction) should be considered and the applicant should be allowed to develop the area in the proportion in which he has paid the premium one time and the records in other rights should be removed only for the said area. For remaining area the premium should be collected as per then ready reckoner rate and the other rights records should be removed in the proportion of depositing the premium amount.
 - v. After the said applicant pays the said premium in the Government Treasury, and the original copy of the challan is submitted to the concerned District Collector and Competent Authority office the action to remove the record of "area under ULCH 20 and prevention to the transfer) taken in the land records which was given concession for the purpose of housing, plot development, agriculture, cattle farming, garden etc. should be started. However, since it is exempted to construct small/medium size houses on the said area, the record of "area for the construction of houses in the limit of 80 sq.mtr. FSI" should be taken.
 - vi. As it is mentioned in above paragraph number 1 while developing area after payment of government surcharge amount, it is mandatory for applicant as per current work procedure to develop such area with all various reservations on it as per approved planning by concerned planning authority as well as development control regulations.
 - vii. While taking benefit of this scheme, the constructed area which is already transferred to Government through housing project/ Talegaon-Dabhade land development scheme/ other schemes or area which needs to be handed over to government cannot be returned or no such request should be considered in any condition.

- viii. As it is mentioned above all proceedings are expected to be completed in specified time interval, so provisions of chapter 3 of delay prohibition act, 2005 about government work completion prescribed are applicable to delay caused by regulation of Maharashtra Governments employees transfer and while fulfilling government duties.
- ix. After taking surcharge as per this Government Resolution while giving permission to the development of available land chief of concerned authority should take appropriate care that condition of construction 80 square meter houses is mentioned in the Development permission certificate clearly and while providing occupancy certificate to such building same should be verified.
- x. If scheme holder wants to develop exempted land as per terms and conditions under section 20 of the Urban Land Act (ceiling and regulation) then there will be no objection by this Government Resolution. Similarly terms and conditions of the scheme as per order under section 20 of the Urban Land Act (ceiling and regulation) will remain as it is.
- xi. District Collector and able Authority should publish the purpose wise list of all schemes which are exempted for various purposes under section 20 of the Urban Land Act (ceiling and regulation). Similarly on the background of Repeal Urban Land Act (ceiling and regulation) should manage all the records of the office in the prescribed manner.

This Government Resolution is available on www.maharashtra.gov.in this website and its code is 201908021213101625. This has been issued with digital signature.

By the order and in behalf of Maharashtra state's Governor.

(Shreeram Yadav)

Deputy Secretary,
Maharashtra Government