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MUNICIPAL CORPORATION OF GREATER MUMBAI

No. Dy. Ch.E/BP/2499/WS-II/P&R Dt.

ISSUED
25 JUN 2019

Sub:- Building proposals in the vicinity of Defence Establishment, Central Ordnance Depot, Malad & Kandivali

- Ref:-** 1) The news published in Times of India Dt. 24.06.2019. (Pg. C-1)
- 2) Letter received from the colonel, OIC Land & Legal for Commandant.
- i) U/no. 195/WP No. 1846/16/Sea Jewel/Adm. dt. 21.05.2019. (Pg. C-3)
- ii) U/no. 195/L.C. Suit 2382/13/AS Sharma/xx/Adm. dt. 23.05.2019. (Pg. C-7)
- iii) U/no. 195/WP No. 3051/14/neo Pharma/Adm dt. 14.05.2019. (Pg. C-11)
- 3) Letter received from the colonel, Administrative Commandant for Station Commander.
- i) U/no. 3271/CTS no 136-A/Land dated 06.06.2019. (Pg. C-15)
- ii) U/no. 3271/CTS no 218/Land dated 17.05.2019. (Pg. C-17)

Reference is kindly requested to the news published in daily 'Times of India' in it's edition Dt. 24.06.2019 as at Pg. C-1.

A short narration of the news is as below:

The news mainly focuses on the restriction on development of construction activities within the restricted zone as emphasized by Defence establishment of Army's Central Ordnance Depot (COD) located at Kandivali and Malad. Local Army officials reiterate that anti nationalist element may use the proposed construction for carrying out Human / Material damage by direct firing weapons, endangering the life of 700 officers and jawans and damage to warlike stores worth Rs. 272 Crores.

It is also mentioned in the news item that the October 21, 2016 circular of Defence establishment, reduced the security barrier from 500 metres to just 10 metres for Defence establishments and installations at 193 stations across the country, including the two depots in Kandivali and Malad. However, an army officer expressed its concern to the defence ministry after this circular was issued and further added that "The policy is likely to be reviewed".

Reference is further requested to the letters received from the Colonel, OIC Land & Legal for Commandant vide above reference no. 2 regarding above subject matter wherein, he has addressed letter vide above reference to Officer In Charge of Dindoshi, Malad (East) and Samata nagar, Kandivali Police Station, Mumbai for filing of FIR against illegal construction activities on various plots and requested that "the builder and MCGM be directed to stop the illegal construction activities on the said plot and the matter be investigated that how the said construction has commenced without obtaining NOC from COD, Mumbai or Local Military Authorities and FIR be lodged accordingly."

The Colonel, OIC Land & Legal for Commandant has also forwarded copy of the same to this office and same is reproduced as below: (Pg. C-5)

"(a) You are requested to issue "Stop Work Notice" forthwith.

(b) Govt. of India (Ministry of Def) letter No. 11026/2/2011/D (Lands) dated 21Oct 2016 has been issued to share the thought process of the Govt. of India and it reads very clearly, quote," the Govt. has decided to amend guidelines issued under Circular dated 18.05.2011 read with Circular dated 18.03.2015 and 17.11.2015, in consultation with Services." Hence, this letter be not treated as authority for revised distances to be kept away for high rise buildings from Defence Installations. Govt. of India (Ministry of Defence) letter No. 11026/2/2011(D) (Lands) dated 18 May 2011 is the latest authority and guidelines in such cases."

The letters are also received from the Colonel, Offg. Administrative Command for Station Commander vide above reference no. 3 regarding above subject matter wherein, he has addressed letter to this office mentioning that "the policy guidelines for issue of 'NOC' for building constructions in the vicinity of Defence establishment issued by the Govt. of India, Ministry Defence letter No. 11026/2/2011/D(Lands) dated 21.102016 is under review. Therefore, the guidelines promulgated by Govt. of India, Ministry Defence letter No. 11026/2/2011/D(Lands) dated 18.05.2011 are to be considered for grant of 'NOC'. Accordingly, it also mentioned that request for approval of plans by this office cannot be considered vide Govt of India, Ministry Defence letter No. 11026/2/2011/D(Lands) dated 18.05.2011". (Pg. C-15 to C-19)

The gist of cases is as under:-

1. The position of cases mentioned in the subject cited above is as under:-

Sr. No.	Ward	No. of Building proposal
1	'P' Ward	20
2	'R' Ward	42
	Total	62

The list of the building proposal is attached at pg. no. C/67 to C/ 89.

2. Various concessions approvals such as I.O.D., C.C. and Further C.C. for most of the above mentioned proposals has been issued prior to issue of guidelines dated 18.05.2011 (copy at Pg. C-23). Most of the proposals are of redevelopment of the existing old dilapidated building and dependent on the full consumption of the floor space index potential which are approved in a phase wise manner for its viability.
3. Ministry of Defence, Govt. of India has issued guidelines to regulate grant of NOC to their commanding officers regarding No objection Certificate (NOC) for building construction u/no. 11026/2/2011/D (Lands) dtd. 18.05.2011.

The copy of the said guidelines was sent to UD Deptt. & Municipal Commissioner by Defence Deptt. on 12.02.2012.

As per the above guidelines it is stated that:-

"a) In places where local municipal laws require consultation with the Station Commander before a building plan is approved, the Station Commander may convey its views after seeking approval from next higher authority not below the rank of Brigadier or equivalent within four months, of receipt of such requests of within the specified period, if any required by law. Objection /

views / NOC will be conveyed only to State Government agencies or to Municipal authority, and under no circumstances shall be conveyed to builders / private parties.

- b) Where the local municipal laws do not so require, yet the Station Commander feels that any construction coming up within 100 meter (for multistory building of more than four storeys the distance shall be 500 meters) radius of defence establishment can be a security hazard, it should refer the matter immediately to its next higher authority in the chain of its command. In case the next higher authority is also so conveyed, then the Station Commander may convey its objection / views to the local municipality or State Government agencies. In case the municipal authority / State Government do not take cognizance of the said objection, then the matter may be taken up with higher authorities, if need be through AHQ/MoD.
- c) Objection / views / NOC shall not be given by any authority other than Station Commander to the local municipality of State Government agencies and shall not be given directly to private parties / builders under any circumstances.
- d) NOC once issued will not be withdrawn without the approval of the Service Hqrs.

Thus it is clear that the implementation of requirement of NOC from Defence establishments was necessary only after the date of the receipt of the guidelines issued by Ministry of Defence, Govt. of India to U.D.D. Maharashtra and M.C.G.M. on 12.02.2012, since before the said interim guidelines, no zone was ever specified for requirement of NOC from Defence establishment.

Thereafter as per the above guidelines fresh proposals received to this office within 500m radius of Defence establishments were sent to concern Defence authority along with the requisite documents / plans for their NOC. All the proposals were more than 4 storeys and hence in accordance with the guidelines almost all these proposals were rejected by the commanding officer.

4. Thereafter, Urban Development Department, Govt. of Maharashtra vide circular u/no. CRZ/2012/CM-2/12/UD-12 dtd. 21.02.2015 issued guidelines. Copy at pg. C-27 to C-31 thereby superceding the earlier guide lines dated 04.11.2010.

Reference is kindly requested to para (क) (ड) व (ई) of the above said circular as below:-

- (क) महाराष्ट्र राज्यातील सर्व नियोजन प्राधिकरणांनी / विशेष नियोजन प्राधिकरणांनी त्यांच्या संकेतस्थळावर त्यांचे कार्यक्षेत्रांतर्गत असलेल्या उपरोक्त तीनही सेनादलांचे आस्थापनापासून नियंत्रित क्षेत्रातील विकास परवानग्यांची सर्व माहिती नकाशांसह अपलोड करावी. तसेच, प्रस्तावित विकास प्रस्तावांच्या प्रती नकाशांसह संबंधित स्टेशनकमांडरकडे / संरक्षण आस्थापनांकडे त्याच दिवशी स्पीड पोस्टाद्वारे पाठवाव्यात.
- (ड) या दिनांकापासून तीस दिवसांच्या कालावधीत स्टेशनकमांडर अथवा त्यांचे वरिष्ठांना काही आक्षेप नोंदवावयाचे असतील तर त्यांनी ते नोंदवावेत आणि काही आक्षेप असल्यास त्याबाबत नियोजन प्राधिकरणांनी यांच्याशी विचारविनिमय करून निर्णय घ्यावा महाराष्ट्र प्रादेशिक नियोजन व नगररचना अधिनियम 1966 चे तरतुदीनुसार उचित कार्यवाही करावी. मात्र ज्याठिकाणी असा निर्णय घेण्याविषयी दुमत असेल अशा वेळी राज्य शासनाकडे / केंद्र शासनाकडे संदर्भ करून त्यावर उचित मार्गदर्शन घ्यावे.

(ई) संरक्षण विभागाच्या उक्त मार्गदर्शक तत्वांनुसार जेथे ना-हरकत प्रमाणपत्र घेणेची आवश्यकता नसतानाही यापूर्वी काही प्रकल्पधारकांनी / नियोजन प्राधिकरणांनी विकास प्रस्तावासाठी संरक्षण विभागाकडे ना-हरकत प्रमाणपत्र अपेक्षिले असेल आणि जेथे सदर विकास प्रस्तावांना संरक्षण विभागाने अद्यापही ना-हरकत प्रमाणपत्र देलेले नसेल तर अशा जुन्या प्रकरणी, या परिपत्रकाचे दिनांकापासून 30 दिवसांचे विहित कालावधीत संरक्षण विभागाने यासंबंधाने निर्णय दिला नाही तरसंबंधीत नियोजन प्राधिकरणांनी महाराष्ट्र प्रादेशिक व नगररचना अधिनियम 1966 चे तरतुदीनुसार उचित कार्यवाही करावी.

- 5) Thereafter, Ministry of Defence, Government of India amended earlier circular of even number dated 18.03.2011 vide Circulars of even number dated. 18.03.2015 (copy at Pg. C-33) and 17.11.2015 (copy at Pg. C-35) regarding grant of NOC form local Military Authorities for construction of building in the vicinity of Defence establishment.
- 6) Lastly, Ministry of Defence, Govt. of India has issued Guidelines for issue of 'No Objection Certificate (NOC) for building constructions' u/no. 11026/2/2011/D (Lands) dated 21.10.2016 (copy at pg. C-39 to C-59).

Guidelines dated 21.10.2016 reproduced as below:

a) *Security restrictions in respect of Defence establishments / installations located at 193 stations as listed in Part A of annexure to this circular shall apply upto 10 meter from the outer wall of such Defence establishments / installations to maintain clear line of sight for effective surveillance. Any constructions or repair activity within such restricted zone of 10 meter will require prior No objection Certificate (NOC) from the Local Military Authority (LMA) / Defence establishments.*

b) *Security restrictions in respect of Defence establishments / installations located at 149 stations as listed in part B of Annexure to this circular shall apply upto 100 meter from the outer wall of such Defence establishments / installations to maintain clear line of sight for effective surveillance.*

- 7) Also, letter of Additional Director General (L/LA), Defence Estates, Shri. Ajay Kumar Sharma forwarded to Principal Director, Defence Estate, Ministry of Defence u/no. 751/26/L/E/2011 dated 25.10.2016 is reproduced as below: (pg. C-37)

"Guidelines for issue of 'No objection Certificate (NOC) for building construction regarding"

Please find enclosed herewith Govt of India, Ministry of Defence letter No. F11026/2/2011/D(Lands) dated 21.10.2016 regarding amended guidelines for issue of "No Objection Certificate (NOC) for building constructions" for your information and necessary action.

The MOD Circular dated 21.10.2016 may please be forwarded to the DEOs and CEOs under your jurisdiction for their necessary action."

- 8) Thereafter, based on guidelines issued by Ministry of Defence, Government of India dated 21.10.2016, Joint secretary, Government of Maharashtra Urban Development Department has also issued guidelines u/no.CRZ-1215/1093/P.K. 40/15/UD-12 dated 07.11.2016 for controlling construction activities in the vicinity of Defence establishment and directed that Security restrictions in respect of Defence

establishments / installations located at Nagpur district -01, Jalgaon district-01, Pune district-07, Mumbai district- Kalina, Trombay, Ghatkopar, Wadala, Cross island, Malad, Kandivali & Kolhapur-01 and Aurangabad district -01 as listed in Part A of annexure of the circular dated 21.10.2016 shall apply upto 10 meter from the outer wall of such Defence establishments / installations. (Pg. no. C-61 to C-65)

Part B of Annexure is not applicable to Maharashtra State.

- 9) In the Guidelines issued by Ministry of Defence (MOD) dated 21.10.2016 and Circular issued by UDD dated 07.11.2016, it is observed that there is no restriction to height of building located at a distance more than 10 meter from the outer wall of such Defence establishments / installations.
- 10) Accordingly, this office has issued construction permissions only after and as per directions given in the guidelines issued by Ministry of Defence (MOD) dated 21.10.2016 & circular issued by UDD from time to time & latest being dated 07.11.2016 and hence valid and legal and no action is warranted in this matter.
- 11) In view of above and on basis of UDD circular dated 07.11.2016, it is proposed that **matter be taken up by U.D. Deptt., Govt. Of Maharashtra with Hon'ble Defence Minister seeking clarification to whether MCGM can process further the permissions such as IOD, CC, FCC and OCC/BCC to completed buildings located at a distance more than 10mt. from outer wall of Defence establishment without obtaining their NOC as per UDD Circular u/no.CRZ-1215/1093/P.K. 40/15/UD-12 dated 07.11.2016 for controlling construction activities in the vicinity of Defence establishment.**

It may be further submitted that most of the proposals are of redevelopment of the existing old buildings which have become dilapidated due to age of the structure and are in urgent need of redevelopment, else a mishap is possible. Being redevelopment proposal there is time bound programme as per RERA / development agreement to complete the building within stipulated time. Further the development of the D.P. Roads and other public amenities will not be developed as major portion of the property around the COD boundary are encroached by slum and the entire development of proposals as mentioned in list attached at pg. C/67 to C/89 shall come to a standstill.

In light of above facts and news flashed in the newspaper, it is submitted for the perusal and consideration of Ch.E.(D.P.)/ Hon'ble M.C. with a request to approval to the draft letter (at pg. C/91) proposed to send to U.D. Department for fixing further line of action in the matter.

Submitted please.

Ch.Eng. (D.P.)

Hon. M.C.

Sir,

[Handwritten signature]
25/6/19
Dy.Ch.E.(B.P.)W.S. -II

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24/6/2019
A.E.(B.P.)
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25.06.19
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24/6/19
SECRETARY

Draft D.O. Letter

Shri. Praveen Pardeshi
Municipal Commissioner



**Office of the
Municipal Commissioner,**
Municipal Corporation of
Greater Mumbai,
Mahapalika Marg,
Fort, Mumbai 400001
D.O. No.

Sub: Building proposals in the vicinity of Defence Establishment, Central Ordnance Depot, Malad & Kandivali, Mumbai.

Dear

Ministry of Defence, Govt. of India has issued Guidelines for issue of 'No Objection Certificate (NOC) for building constructions' u/No. 11026/2/2011/D(Lands) Dt. 21.10.2016 by which restricted limit for construction is revised from 500 mt. to 10 mt. from outer wall of Defence establishments/installations located at 193 stations as listed in Part A of Annexure to this circular. It is seen that Defence establishments/installations located within MCGM limit are covered in aforesaid 193 Stations.

Further Urban Development Department, Govt. of Maharashtra also issued Circular under No. CRZ-1215/1093/S.N.40/15/UD-12 Dt. 07.11.2016.

Accordingly, the proposals are being processed as per the directions given in the Guidelines issued by Ministry of Defence and Circular issued by Urban Development Department cited above.

Recently various letters are received from Defence Authorities addressed to the Officer in Charge of Malad and Kandivali Police Station for filing of FIR against illegal construction activities and also requesting MCGM to issue Stop work Notices to various building proposals indulged in construction activities in restricted zone of COD. It is also mentioned that policy guidelines for issue of 'NOC' for building constructions in the vicinity of Defence establishment issued by the Govt. of India, Ministry of Defence under letter No. 11026/2/2011/D(Lands) dated 21.10.2016 is under review. Therefore, the earlier guidelines promulgated by Govt. of India, Ministry Defence letter No. 11026/2/2011/D(Lands) dated 18.05.2011 are to be considered for grant of 'NOC'

It is therefore requested to offer clarification whether to process the proposals in the vicinity having distance more than 10mt from outer wall of Defense Establishment without obtaining NOC from the Local Military Authority (LMA) / Defense Establishments or otherwise.

With Regards,

Yours

To
Chief Secretary
Govt. of Maharashtra,
Submitted with a request to
take up with Secretary Ministry of Defence,
Govt. of India.

Praveen Pardeshi

Principal Secretary (I), U.D. Department,
Mantralaya, 4th floor,
Mumbai - 400 032.

o/c

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