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Jayesh Chauhan
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Sahil Parikh
Aditya Mirchandani
Rushi Ajmera

YOUTHWING CONVENOR
Naman Shah

PROCUREMENT CONVENOR
Nimish Ajmera

WOMEN'S WING CHAIRPERSON
Sejal Goradia

Ref. No. MCHI/PRES/23-25/080

Date: 30/6/2023

To,
Shri Devendra Fadnavis
Hon'ble Deputy Chief Minister &
Minister of Housing,
Government of Maharashtra,
Mantralaya, Mumbai. 400032

उपमुख्यमंत्री यांचे कार्यालय
महाराष्ट्र शासन
मंत्रालय, मुंबई ४०० ०३२

Sub: Slum Redevelopment Schemes submitted on several lands across the city of Mumbai affected by the order of SRA dated 20th April 2022 recording 517 schemes across the city and its guidelines dated 8th June 2022 for restoration of these 517 schemes.

Respected Madam,

1. We would hereby like to bring your kind attention that SRA had issued a Circular dated 20th April, 2022 bearing No.2022/15144, wherein it had recorded 517 schemes across the city. This was a blanket order wherein all of these 517 schemes were recorded by SRA without following the due process of law as laid down in Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 and Slum Rules. Enclosed copy of the circular dated 20th April, 2022 issued by SRA at **Annexure 'A'**.
2. Thereafter, the SRA issued Guidelines for the Developers who wanted to undertake the schemes which were recorded under the circular of 20th April 2022 vide its Guidelines dated 8th June 2022 (bearing No. SRA/CLC/T.1/D.1/246/22. Enclosed copy of the Guidelines dated 8th June, 2022 issued by SRA at **Annexure 'B'**.
3. The Hon'ble Bombay High Court in Writ Petition (L) No. 14017 of 2022, has made an observation that CEO, SRA has not followed the due process of law while issuing the circular dated 20th April 2022 and made observation as under:

'Section 13 provides the manner in which the CEO, SRA is to proceed. This is on a project-to-project basis with individual deficiencies being pointed out. It is not possible for the CEO to lump together as many as 500 projects, say that they are all delayed, proceed on the assumption that all delays are attributable to developers, demand compliance with unspecified requirements in an unspecified time, and in default of such generalities that are impossible to meet, threaten the recording of a rejection of project slum schemes.'

'Where a statute requires an authority to act in a certain manner, it is well settled that it must act in that manner or not at all. We understand that there may be pressures on the SRA, but since it is a special planning authority and the authority under the Slum Rehabilitation Act, it cannot function except as otherwise permitted by that Act.'

Maharashtra Chamber of Housing Industry

Maker Bhavan II, 4th Floor, 18, V. Thackersey Marg, New Marine Lines, Mumbai - 400 020.
Tel: 42121421. Fax: 4212 1411/407 Email: secretariat@mchi.net Website: www.mchi.net

CREDAI-MCHI CHAPTERS : THANE | KALYAN-DOMBIVLI | MIRA BHAYANDAR | RAIGAD | NAVI MUMBAI |
BHIWANDI | PALGHAR BOISAR | SHAHAPUR-MURBAD | URAN-DRONAGIRI |
VASAI VIRAR | ALIBAG | KARJAT-KHALAPUR-KHOPOLI | YOUTH NMR

'The impugned order cannot be sustained. Exhibit "W" of 20th April 2022 is quashed and set aside.'

4. The Hon'ble Bombay High Court in its order dated 10th January 2023 has quashed and set aside the communication or notice issued by the CEO SRA dated 20th April 2022. Enclosed copy of the Hon'ble Bombay High Court order dated 10th January, 2023 at **Annexure 'C'**.
5. Furthermore, Apex Grievance Redressal Committee (AGRC), Government of Maharashtra has taken the cognizance of the order dated 10th January 2023 issued by the Hon'ble Bombay High Court and is reviving the schemes coming up in hearings and is directing the CEO SRA to conduct fresh hearings under provision of 13(2) of Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 i.e. in accordance with applicable law. Enclosed copy of an order dated 5th April, 2023 in Application no. 203 of 2022 before AGRC, GOM as a specimen order at **Annexure 'D'**.
6. Accordingly, it is respectfully submitted that since the Hon'ble Bombay High Court has quashed the Circular dated 20th April, 2022, the Guidelines on 8th June 2022 (bearing No. SRA/CLC/T.1/D.1/246/22 for implementing the Circular dated 20th April, 2022 would also be deemed to be withdrawn, since such guidelines are directly linked only to the implementation of the now quashed Circular dated 20th April, 2022. However, there are no such directives / clarifications issues by CEO SRA.
7. Furthermore, the implementation of Guidelines dated 8th June 2022 is cumbersome owing to the following reasons:
 - a. If any schemes which is part of the 517 order needs to be revived/developed, fresh submissions needs to be made to SRA under section 144 wherein NOC from Assistant Registrar of Societies (ARS) department, Town Planning (TP) department, City Survey Office (CTSO) department and Finance Controller (FC) department needs to be obtained afresh, which is time consuming and delays the implementation of the schemes. These Nocs can be taken if and when required for further processing the schemes by SRA.
 - b. For ARS NOC, fresh GBR has to be conducted in presence of representative of ARS. The approval of such GBR is granted by Hon Secretary and Hon CEO SRA, and only then a person is deputed from the office of ARS. This entire process is time consuming and cumbersome, which delays the implementation of schemes.
 - c. For FC NOC, One (1) year rent for all tenants have to be deposited in SRA along with subsequent Two (2) year PDCs. The blocking of funds in the accounts of SRA is an impediment in implementation, as these funds do not go directly to the beneficiary at one go. In schemes wherein the development time/ horizon is 2-3 years owing to these being part of large layout, such blocking of funds makes the scheme totally unviable. Moreover, 5% of Ready Reckoner needs to be paid as fees if the name of entity / constitution of the Developer entity is changed. If required, SRA should direct the payment of entire one year rent as advance to the handed over to society/tenants directly or to SRA, at the time of vacating the tenants and not at time of obtaining FC NOC.

8. In the circumstances, we humbly submit that appropriate orders be passed under Section 3(K) (2) of the Maharashtra Slum Areas (Improvement, Clearance, and Redevelopment) Act, 1971, to cancel the Guidelines dated 8th June 2022 or modify them whereby the implementation time / blockage of funds is reduced.


Yours sincerely,
For CREDAI-MCHI

Domnic Romell
President

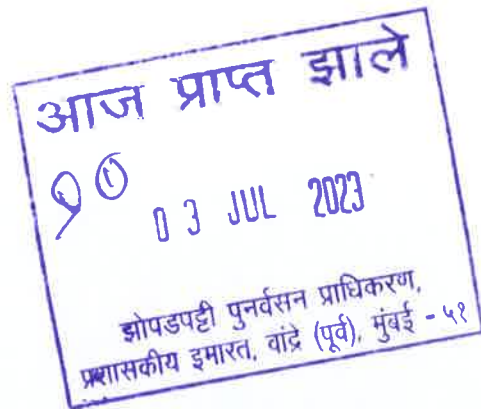
Dhaval Ajmera
Hon. Secretary

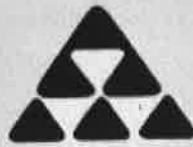
Encl: As stated

CC:


31/07/23
अपर मुख्य सचिव यांचे
व्यक्तिगत सहायक
गृहनिर्माण विभाग
मंत्रालय शासन
मंत्रालय, मुंबई-400 032

- ✓ 1. **Smt. Valsa Nair Singh (I.A.S.)**
Addl. Chief Secretary,
Housing Department,
Government of Maharashtra,
Mantralaya,
Mumbai. - 400032
- ✓ 2. **Shri Satish Lokhande**
Chief Executive officer (CEO),
Slum Rehabilitation Authority,
Administrative Building,
Anant Kanetkar Marg,
Bandra (East) Mumbai – 400051.





No. SRA/CLC/T-1/0-1/ 246/22
8 JUN 2022

SLUM REHABILITATION AUTHORITY

GUIDELINES FOR 517 RECORDED SCHEMES

Whereas the Slum Rehabilitation Authority has recorded 517 Slum Rehabilitation Schemes on 20.04.2022, wherein the proposals were accepted prior to the year 2014 and the concerned Developers have failed to take necessary steps.

The Slum Rehabilitation Authority has considered the issue and in order to secure the early rehabilitation of eligible slum dwellers issues following guidelines.

The concerned Developers should comply with the requirements of Circular-144 of the Slum Rehabilitation Authority in following manner.

- a) The Fresh General Body Resolution of society in presence of representative of Co-operative Department/SRA should be submitted regarding requisite consent.
- b) The Bar Chart regarding completion of Rehab component in time bound manner with dates should be submitted.
- c) The Developer should deposit one year advance rent in Escrow Account of Slum Rehabilitation Authority and Developer. The Developer should deposit cheque of next two years for payment of rent to Slum Rehabilitation Authority and will have to respect the commitment.
- d) The Developer shall obtain fresh Annexure-III regarding their financial capability in respect of timely completion of Slum Rehabilitation Scheme.

In case of other NOCs/requirements i.e. 1. NOC of Engineering, 2. NOC of Tahsildar (Special Cell), 3. NOC of DDTP/SRA and 4. NOC of

1

DSLRSRA. If, there is any change in the status then Slum Rehabilitation Authority will insist for other NOCs according to present status.



Chief Executive Officer
Slum Rehabilitation Authority.

Amol

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 14017 OF 2022**

Nipun Thakkar

...Petitioner

Versus

Chief Executive Officer, Slum Rehabilitation
Authority & Anr

...Respondents

**Mr Mayur Khandeparkar, with Drupad Patil & Dheeraj Patil, for the
Petitioner.**

Mr Ashish S Gaikwad, for Respondent No.1 (SRA).

Mr Saurabh Utangale, i/b Utangale & Co, for Respondent No.2.

**CORAM G.S. Patel &
 S.G. Dige, JJ.**

DATED: 10th January 2023

PC:-

AMOL
PREMNATH
JADHAV

Digitally signed by
AMOL PREMNATH
JADHAV
Date: 2023.01.11
12:09:53 +0530

1. Rule. Respondent waives service. Rule made returnable forthwith.

2. The Petition challenges, and in our view quite rightly, a wholly unsustainable communication or notice issued by the Chief Executive Officer of the Slum Rehabilitation Authority (“SRA”) on 20th April 2022. A copy is at Exhibit “W”.

3. This is a generic notice. It says that there are many slum rehabilitation projects prior to 2014 that are incomplete, as a result of which the slum rehabilitation projects have been delayed. A list is to be annexed. Those developers whose names are on the list are expected to upload “compliances”. Then the notice says that, in default of such unspecified compliances, the SRA will proceed to redevelop the clearance area or appoint another developer. In fact, the notice seems to record a rejection of the slum rehabilitation schemes.

4. Section 13 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (not under Chapter 1-A) reads thus:

“13. Power of Contempt Authority to redevelop clearance area

(1) Notwithstanding anything contained in sub-section (1) of Section 12 the Competent Authority may, at the time after the land has been cleared of buildings in accordance with a clearance order, but before the work of redevelopment of that land has been commenced by the owner, by order, determine to redevelop the land at its own cost, if that Authority is satisfied that it is necessary in the public interest to do so.

(2) Where land has been cleared of the buildings in accordance with a clearance order, the Competent Authority, if it is satisfied that the land has been or is being, redeveloped by the owner thereof in contravention of plans duly approved, or any restrictions or conditions imposed under sub-section (10) of Section 12 or has not been redeveloped within the time, if any, specified under such conditions, may by order, determine to redevelop the land

at its own cost;

Provided that, before passing such order, the owner shall be given a reasonable opportunity of showing cause why the order should not be passed.”

(Emphasis added)

5. The proviso is clear. It means that every defaulting owner/developer must be given notice and afforded a hearing. No rejection of a scheme can proceed, or appointment of another developer, or re-development by the SRA can proceed without compliance with the proviso.

6. We find that in the list that is annexed, and of which an extract is shown including the Petitioner, there are no details whatsoever of any deficiency or non-compliance. It is impossible to comply with such a notice or demand. Indeed, in the case of the Petitioner, there is a finding by the Appellate Grievance Redressal Committee (“AGRC”) (page 151) that the Petitioner is *not* responsible for the delay. Yet the CEO, SRA has issued the impugned communication or notice of 20th April 2022.

7. Section 13 provides the manner in which the CEO, SRA is to proceed. This is on a project-by-project basis with individual deficiencies being pointed out. It is not possible for the CEO to lump together as many as 500 projects, say that they are all delayed, proceed on the assumption that all delays are attributable to developers, demand compliance with unspecified requirements in an unspecified time, and in default of such generalities that are

impossible to meet, threaten the recording of a rejection of the proposed slum schemes.

8. Where a statute requires an authority to act in a certain manner, it is well settled that it must act in that manner or not at all. We understand that there may be pressures on the SRA, but since it is a special planning authority and the authority under the Slum Rehabilitation Act, it cannot function except as otherwise permitted by that Act.

9. The impugned order cannot be sustained. Exhibit "W" of 20th April 2022 is quashed and set aside.

10. Rule is made absolute in these terms.

11. In addition, we also make Rule absolute in terms of prayer clause (c) which reads thus:

"(c) that this Hon'ble Court be pleased to issue a writ of mandamus, or a writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of Constitution of India directing the Respondent No.2 to issue Annexure II certifying the eligibility of the slum dwellers structures on the piece and parcel of land bearing CTS No.827B/1A/1 (as per PR Card CTS No.827/B/1/A/1) admeasuring 16206 sq mtrs or thereabouts corresponding to Survey No.239 Hissa No.1 of Village Malad, Taluka Borivali lying being and situated at Khadakpada, General Arun Kumar Vaidya Marg, Malad (East), Mumbai 400 097 for the SR scheme submitted by the Petitioner."

12. It is after these compliances that the SRA will consider the question of issuing the necessary Letter of Intent or LOI.

13. We make it clear that we have not restricted or constrained the powers of the SRA to take action in accordance with law, where justified. We have only quashed the impugned notice because it is entirely outside the frame of the law and is not issued in accordance with law.

(S. G. Dige, J)

(G. S. Patel, J)