

Bill No. 88 of 2007

THE NATIONAL CAPITAL TERRITORY OF DELHI LAWS (SPECIAL
PROVISIONS) SECOND BILL, 2007

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BILL

to make special provisions for the National Capital Territory of Delhi for a further period up to 31st December, 2008 and for matters connected therewith or incidental thereto.

WHEREAS there had been phenomenal increase in the population of the National Capital Territory of Delhi owing to migration and other factors resulting in tremendous pressure on land and infrastructure leading to encroachment or unauthorised developments which are not in consonance with the concept of planned development as provided in the Master Plan of Delhi, 2001 and the relevant Acts and building bye-laws made thereunder;

AND WHEREAS the Master Plan of Delhi 2001 has been extensively modified and notified by the Central Government on 7th February, 2007 with the perspective for the year 2021 keeping in view the emerging new dimensions in urban development *vis-a-vis* the social, financial and other ground realities;

AND WHEREAS the Master Plan of Delhi with the perspective for the year 2021 specifically provides for strategies for housing for urban poor as well as to deal with the informal sector;

AND WHEREAS a revised policy for relocation and rehabilitation of slum dwellers in the National Capital Territory of Delhi is also under consideration of the Central Government;

AND WHEREAS a strategy and a scheme has been prepared by the local authorities in the National Capital Territory of Delhi for regulation of urban street vendors in accordance with the National Policy for Urban Street Vendors and the Master Plan for Delhi, 2021;

AND WHEREAS some time is required for making orderly arrangements in accordance with the revised policy for relocation and rehabilitation of slum dwellers of Delhi as well as for putting in place the scheme for regulation of urban street vendors in terms of the Master Plan of Delhi, 2021 and also the national policy in this regard;

AND WHEREAS the Central Government has considered and finalised a policy regarding regularisation of unauthorised colonies, village *abadi* area and its extension, as existed on the 31st day of March, 2002 for which the guidelines are being framed;

AND WHEREAS the Central Government require time to take a considered view on the policy regarding existing farm houses involving construction beyond permissible building limits and regarding schools, dispensaries, religious institutions and cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land, *inter alia*, in the light of recommendations of the Expert Committees constituted by the Central Government in the year 2006;

AND WHEREAS the National Capital Territory of Delhi Laws (Special Provisions) Ordinance, 2007 for making special provisions for the areas of the National Capital Territory of Delhi for a further period of one year promulgated on 4th July, 2007 will cease to operate from the 21st day of September, 2007;

AND WHEREAS the National Capital Territory of Delhi Laws (Special Provisions) Bill, 2007 introduced in Parliament to replace the National Capital Territory of Delhi Laws (Special Provisions) Ordinance, 2007 could not be taken up for consideration and passing since Parliament adjourned *sine die*;

AND WHEREAS it is expedient to have a law in terms of the Master Plan of Delhi, 2021, in continuation of the said Act for a period up to 31st December, 2008 to provide temporary relief and to minimise avoidable hardships and irreparable loss to the people of the National Capital Territory of Delhi against any action by the concerned agency in respect of persons covered by the policies referred to above which are expected to be finalised within the period so extended;

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Capital Territory of Delhi Laws (Special Provisions) second Act, 2007.

(2) It extends to the National Capital Territory of Delhi.

(3) It shall be deemed to have come into force on the 19th day of May, 2007.

(4) It shall cease to have effect on the 31st day of December, 2008 except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act, 1897, shall apply as if this Act had then been repealed by a Central Act.

10 of 1897.

Short title,
extent,
commence-
ment and
duration.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “building bye-laws” means bye-laws made under section 481 of the Delhi Municipal Corporation Act, 1957 or the bye-laws made under section 188, sub-section (3) of section 189 and sub-section (1) of section 190 of the Punjab Municipal Act, 1911, as in force in New Delhi or the regulations made under sub-section (1) of section 57 of the Delhi Development Act, 1957, relating to buildings;

66 of 1957.
Punjab Act 3 of
1911.
61 of 1957.

(b) “Delhi” means the entire area of the National Capital Territory of Delhi except the Delhi Cantonment as defined in clause (11) of section 2 of the Delhi Municipal Corporation Act, 1957;

66 of 1957.

(c) “encroachment” means unauthorised occupation of Government land or public land by way of putting temporary, semi-permanent or permanent structure for residential use or commercial use or any other use;

66 of 1957.
44 of 1994.
61 of 1957.

(d) “local authority” means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957, or the New Delhi Municipal Council established under the New Delhi Municipal Council Act, 1994, or the Delhi Development Authority established under the Delhi Development Act, 1957, legally entitled to exercise control in respect of the areas under their respective jurisdiction;

61 of 1957.

(e) “Master Plan” means the Master Plan for Delhi with the perspective for the year 2021 notified, *vide* the notification number S.O.141(E), dated 7th February, 2007 under the Delhi Development Act, 1957;

(f) “notification” means a notification published in the Official Gazette;

(g) “punitive action” means action taken by a local authority under the relevant law against unauthorised development and shall include demolition, sealing of premises and displacement of persons or their business establishment from their existing location, whether in pursuance of court orders or otherwise;

(h) “relevant law” means in case of—

61 of 1957.

(i) the Delhi Development Authority, the Delhi Development Act, 1957;

66 of 1957.

(ii) the Municipal Corporation of Delhi, the Delhi Municipal Corporation Act, 1957; and

44 of 1994.

(iii) the New Delhi Municipal Council, the New Delhi Municipal Council Act, 1994;

(i) “unauthorised development” means use of land or use of building or construction of building or development of colonies, village *abadi* area and its extension, carried out in contravention of the sanctioned plans or without obtaining the sanction of plans, or in contravention of the land use as permitted under the Master Plan or Zonal Plan or layout plan, as the case may be, and includes any encroachment.

61 of 1957.

66 of 1957.

44 of 1994.

(2) The words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Delhi Development Act, 1957, the Delhi Municipal Corporation Act, 1957 and the New Delhi Municipal Council Act, 1994.

3. (1) Notwithstanding anything contained in any relevant law or any rules, regulations or bye-laws made thereunder, the Central Government shall before the expiry of this Act, take all possible measures to finalise norms, policy guidelines and feasible strategies to deal with the problem of encroachment or unauthorised development in the form of encroachment by slum dwellers and *Jhuggi-Jhompri* clusters, hawkers and urban street vendors, unauthorised colonies, village *abadi* area and its extension, existing farm houses involving construction beyond permissible building limits and schools, dispensaries, religious institutions, cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land, as mentioned below:

Enforcement to be kept in abeyance.

(a) policy for relocation and rehabilitation of slum dwellers and *Jhuggi-Jhompri* clusters in accordance with provisions of the Master Plan of Delhi, 2021 to ensure development of Delhi in a sustainable, planned and humane manner;

(b) strategy for regulation of urban street vendors in consonance with the national policy for urban street vendors and hawkers as provided in the Master Plan of Delhi, 2021;

(c) scheme containing guidelines for regularisation of unauthorised colonies, village *abadi* area and its extension, as existed on the 31st day of March, 2002, and

where construction took place even beyond that date and up to the 8th day of February, 2007;

(d) policy regarding existing farm houses involving construction beyond permissible building limits; and

(e) policy regarding schools, dispensaries, religious institutions, cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land.

(2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree or order of any court, *status quo* —

(i) as on the 1st day of January, 2006 in respect of encroachment or unauthorised development; and

(ii) in respect of unauthorised colonies, village *abadi* area and its extension, which existed on the 31st day of March, 2002 and where construction took place even beyond that date and up to the 8th day of February, 2007, mentioned in sub-section (1),

shall be maintained.

(3) All notices issued by any local authority for initiating action against encroachment or unauthorised development referred to in sub-section (1), shall be deemed to have been suspended and no punitive action shall be taken till the 31st day of December, 2008.

(4) Notwithstanding any other provision contained in this Act, the Central Government may, at any time before the 31st day of December, 2008, withdraw the exemption by notification in respect of encroachment or unauthorised development mentioned in sub-section (2) or sub-section (3), as the case may be.

Provisions of this Act not to apply in certain cases.

4. During the period of operation of this Act, no relief shall be available under the provisions of section 3 in respect of the following encroachment or unauthorised development, namely:—

(a) encroachment on public land except in those cases which are covered under clauses (a), (b) and (c) of sub-section (1) of section 3;

(b) removal of slums and *Jhuggi-Jhompri* dwellers, hawkers and urban street vendors, unauthorised colonies or part thereof, village *abadi* area and its extension, in accordance with the relevant policies approved by the Central Government for clearance of land required for specific public projects.

Power of Central Government to give directions.

5. The Central Government may, from time to time, issue such directions to the local authorities as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of the local authorities to comply with such directions.

Repeal and savings.

6. (1) The National Capital Territory of Delhi Laws (Special Provisions) Second Ordinance, 2007 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the National Capital Territory of Delhi Laws (Special Provisions) Second Ordinance, 2007, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Ord.7 of 2007.

Ord. 7 of 2007.

STATEMENT OF OBJECTS AND REASONS

The “Delhi Laws (Special Provisions) Act, 2006” was enacted to address on priority the several orders and directions passed by the Supreme Court and the High Court of Delhi in cases pending before them regarding a number of burning issues which were confronting the city of Delhi at that time, namely unauthorised constructions, commercial use of residential premises, encroachment on public land by slum dwellers and Jhuggi-Jhompri clusters (JJ clusters), problems relating to urban street vendors and which were affecting the lives of millions of people.

2. The Act, *inter alia*, provided the Central Government with a time period of one year to take all possible steps to finalise norms, policy guidelines and feasible strategies to deal with the problem of unauthorised development with regard to mixed land use not conforming to the Master Plan, construction beyond sanctioned plans, and encroachment by slum and JJ (Jhuggi-Jhompri) dwellers, hawkers and urban street vendors. It also provided for *status quo* as on 1st day of January, 2006 to be maintained in respect of these categories of unauthorised development, subject to certain conditions notwithstanding any judgment, decree or order of any court. Similarly, it provided that all notices issued by the local bodies for initiating action against these categories of unauthorised developments shall be deemed to have been suspended and that no punitive action shall be taken during the said period of one year.

3. The Delhi Laws (Special Provisions) Act, 2006 was effective for a period of one year and lapsed on 18th May, 2007. In the intervening period, the Master Plan for Delhi 2021 was notified on 7th February, 2007, incorporating extensive amendments in respect of provisions governing mixed land use, and for construction beyond sanctioned plans, thus providing much needed relief in the case of unauthorised development with regard to mixed land use not conforming to the Master Plan and to construction beyond sanctioned plans.

4. However, the policy guidelines and feasible strategy or scheme to deal with the problems of unauthorised development in certain categories such as slum and JJ dwellers, urban street vendors and hawkers, farm houses, schools, dispensaries, religious institutions, cultural institutions built in rural areas on agricultural land are yet to be finalised.

5. Therefore, since it was felt that some more time is required for making orderly arrangements for preparing policy guidelines, feasible strategies, or schemes for these categories of unauthorised developments, the National Capital Territory of Delhi Laws (Special Provisions) Ordinance, 2007 was promulgated on 4th July, 2007.

6. Accordingly, the National Capital Territory of Delhi Laws (Special Provisions) Bill, 2007 was introduced in the Lok Sabha on 17th August, 2007. Subsequent to introduction of the Bill in Lok Sabha and before the same could be taken up for consideration, certain amendments to the Bill became necessary in view of some important developments in regard to sealing of commercial premises. Based on the recommendations of the Monitoring Committee, the Supreme Court ordered that within a period of three weeks from 27th August, 2007, commercial uses in unauthorised colonies shall stop functioning from the premises except to the extent that the 24 categories which are permitted in the regular areas shall not affect those commercial premises if they are up to 20 sqm. Similarly, based on representations received and discussions held, it was felt that storages, warehouses and godowns meant for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land also needed to be included in the list of unauthorised development to be protected so as to avoid any adverse impact on account of their sudden closure by sealing.

7. In view of these developments, it was considered necessary that the scope of the proposed National Capital Territory of Delhi Laws (Special Provisions) Bill, 2007 may be widened to maintain *status quo* in respect of unauthorised colonies as well as storages, warehouses and godowns meant for agricultural inputs or produce (including dairy and

poultry) in rural areas built on agricultural land, which was approved by the Union Cabinet, at its meeting held on 6th September, 2007. Before the aforementioned official amendments, could be moved for consideration and approval, the Monsoon Session of Parliament which was scheduled up to 14th September, 2007 was adjourned *sine die* and as a result, the Ordinance became liable to lapse on the expiration of six weeks from the date of the reassembly of Parliament as per the provisions of article 123 of the Constitution.

8. In view of the exigencies explained in the preceding paras, it became necessary to promulgate the Second Ordinance to maintain *status quo* so that no punitive action is taken during this period in respect of unauthorised development as given above. It was decided that the scope of proposed Ordinance be widened to also include the village *abadi* and its extension. This decision was taken to prevent loss and damage to people living in a large number of villages in the National Capital Territory of Delhi.

9. It was felt that the *status quo* is to be maintained in respect of the following categories of unauthorised development: slum dwellers and JJ clusters, hawkers and urban street vendors, unauthorised colonies, village *abadi* areas and its extension, existing farm houses involving construction beyond permissible building limits and schools, dispensaries, religious institutions, cultural institutions and storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land.

10. Parliament was not in session and the circumstances existed which render it necessary to take immediate action to give continued effect to the plan, scheme and policies aforesaid, to promulgate the National Capital Territory of Delhi Laws (Special Provisions) Second Ordinance, 2007 on the 15th September, 2007 with a further duration up to 31st December, 2008 so as to complete the aforesaid course of action.

11. The National Capital Territory of Delhi Laws (Special Provisions) Second Bill, 2007 seeks to replace the National Capital Territory of Delhi Laws (Special Provisions) Second Ordinance, 2007.

NEW DELHI;
The 15th November, 2007.

S. JAIPAL REDDY.

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to make special provisions for the National Capital Territory of Delhi for a further period up to 31st December, 2008 and for matters connected therewith or incidental thereto.

(Shri S. Jaipal Reddy, Minister of Urban Development)