



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक २८]

बुधवार, मार्च २९, २०१७/चैत्र ८, शके १९३९

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असाधारण क्रमांक ५३

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Land Revenue Code (Amendment) Bill, 2017 (L. A. Bill No. XVII of 2017), introduced in the Maharashtra Legislative Assembly on the 29th March 2017, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

PRAKASH H. MALI,

Principal Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. XVII OF 2017.

A BILL

further to amend the Maharashtra Land Revenue Code, 1966.

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Land Revenue Code, 1966, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Land Revenue Code (Amendment) Ordinance, 2017, on the 5th January 2017;

Mah.
XLI of
1966.
Mah. Ord.
II of
2017.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maharashtra Land Revenue Code (Amendment) Act, 2017.

Short title
and commence-
ment.

(2) It shall be deemed to have come into force on the 5th January 2017.

(१)

Insertion of sections 42B and 42C in Mah. XLI of 1966.

2. After section 42A of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as “ the said Code ”), the following sections shall be inserted, namely :—

Mah. XLI of 1966.

Provision for conversion of land use for lands included in final Development plan area.

“42B. (1) Notwithstanding anything contained in sections 42, 42A, 44 and 44A, upon publication of the final Development plan in any area as per the provisions of the Maharashtra Regional and Town Planning Act, 1966, the use of any land comprised in such area shall, if conversion tax, non-agricultural assessment and, wherever applicable, *nazarana* or premium and other Government dues as provided for in sub-section (2) are paid, be deemed to have been converted to the use shown by way of allocation, reservation or designation in such Development plan and no separate permission under section 42 or section 44 shall be required for the use of such land for the use permissible under such Development plan :

Mah. XXXVII of 1966.

Provided that, where a final Development plan is already published on or before the date of commencement of the Maharashtra Land Revenue Code (Amendment) Act, 2017 (hereinafter in this section referred to as “the commencement date”), any land comprised in the area under such Development Plan shall, if the conversion tax, non-agricultural assessment and wherever applicable, *nazarana* or premium and other Government dues as provided for in sub-section (2) are paid, be deemed to have been converted to the use shown by way of allocation, reservation or designation in respect of such land in such final Development plan.

Mah. of 2017.

(2) Upon publication of the final Development plan in any area and, where there is a final Development plan already published, after the commencement date, the Collector shall, on an application made in this regard or *suo motu*, determine or cause to be determined the conversion tax at the rate mentioned in section 47A and the non-agricultural assessment for such land on the basis of the use shown in the Development plan and give a notice thereof to the concerned occupant for making payment thereof :

Provided that, where such land is held as Occupant Class-II, the Collector shall also examine the documents by which such land is granted as such and the relevant laws, rules and the Government orders by which such land is governed and if the conversion to the use shown in the final Development plan is permissible thereunder, the Collector shall, wherever necessary, after obtaining prior approval of the authority competent to allow such conversion, determine *nazarana* or premium and other Government dues payable for such conversion, as per special or general orders of the Government, alongwith the amount of conversion tax and non-agricultural assessment, as aforesaid, and communicate the same to the occupant for making payment. If the payment as required under this sub-section is done by the occupant, the Collector shall grant him *sanad* in the form prescribed under the rules within a period of sixty days from payment thereof. On issuance of *sanad*, necessary entry in the record of rights shall be made showing such land as having been converted to non-agricultural use, with effect from the date of payment as aforesaid :

Provided further that, where the action under this sub-section is undertaken on an application made in this regard, the notice, after determination of conversion tax and non-agricultural assessment and,

wherever applicable, the amount payable to the Government towards *nazarana* or premium and other Government dues as per the prevailing orders of the Government, shall be issued to the concerned occupant,—

(a) in respect of land held as Occupant Class-I, within 30 days from the date of application ;

(b) in respect of land held as Occupant Class-II,—

(i) within 30 days from the date of application, where the Collector is competent to grant permission for change of use of such land at his level ;

(ii) within 30 days from the date on which the permission of the authority, competent to allow such conversion or change of use, is received by the Collector :

Provided also that, the non-agricultural assessment done under this section shall, wherever necessary, be revised for a land in accordance with the development permission accorded by the Planning Authority and for this purpose, it shall be mandatory for the Planning Authority to furnish a copy of such development permission to the Collector, in each case within 30 days of grant of such permission or its revision, if any :

Provided also that, the non-agricultural assessment of a land, done on the basis of the use shown in the Development plan, shall be revised in case the Development plan is revised or modified by the Government and as a result thereof, the use of the land shown in the Development plan changes, with effect from the date of such revision or modification :

Provided also that, the *challan* or receipt of payment of conversion tax, non-agricultural assessment and *nazarana* or premium and other Government dues under this sub-section shall be regarded as the proof of the land having been converted to the non-agricultural use shown in the final Development plan and no further proof shall be necessary.

(3) Nothing in sub-sections (1) and (2) shall be applicable to any land granted by the Government under section 31 or 38, for specific purpose or to any land acquired by the Government under the relevant laws and handed over to any individual, institution or company for use, or to any land which is under any reservation in the Development plan but has not been acquired by the Planning Authority or the Appropriate Authority.

42C. (1) Where a land is situated in an area, for which draft Regional plan has been prepared and necessary notice regarding such draft Regional plan has been duly published in the *Official Gazette* or such Regional plan has been approved and published in the *Official Gazette*, the use of such land for the purposes of section 42 or section 44, shall be deemed to have been converted to corresponding non-agricultural use, once development permission on such land under section 18 of the Maharashtra Regional and Town Planning Act, 1966 is granted, if the conversion tax and non-agricultural assessment, as per the provisions of this Act, and, in respect of a land held as Occupant Class-II, *nazarana* or premium and other Government dues levied for such conversion, as per the prevailing orders of the Government and the relevant provisions of the law, are paid.

Provision for conversion of land use for lands included in the draft Regional plan.

Mah.
XXXVII
of 1966.

(2) Where a land is situated in an area for which draft Regional plan or draft Development plan has been prepared and necessary notice regarding such draft Regional plan or draft Development plan has been duly published in the *Official Gazette* or such Regional plan or, as the case may be, the Development plan has been approved and published in the *Official Gazette*, the permission to build a farm building, given by the Collector under section 18 of the Maharashtra Regional and Town Planning Act, 1966 or by the Planning Authority under the provisions of the aforesaid Act, shall be deemed to be the permission envisaged under section 41 for such farm building.”.

Mah.
XXXVII
of 1966.

Amendment
of section 48
of Mah. XLI of
1966.

3. In section 48 of the said Code, in sub-section (7), for the words “equal to five times” the words “upto five times” shall be substituted.

Power to
remove
difficulty.

4. (1) If any difficulty arises in giving effect to the provisions of the Maharashtra Land Revenue Code, 1966 as amended by this Act, the State Government may, as occasion arises, by order published in the *Official Gazette*, do anything not inconsistent with the provisions of the said Code, as amended by this Act which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Mah.
XLI of
1966.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

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(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each house of the State Legislature.

Repeal of
Mah. ord. II of
2017 and
saving.

5. (1) The Maharashtra Land Revenue Code (Amendment) Ordinance, 2017, is hereby repealed.

Mah.
Ord. II
of 2017.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the said Code as amended by the said Ordinance, shall be deemed to have been done, taken or, as the case may be, issued under the corresponding provisions of the said Code, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

Section 42 of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), deals with conversion of land use and permission for non-agricultural use of land.

Once Development plan has been finally notified by the Government under the Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966), for any area, it becomes permissible for the land holders in such area to use their lands as per the provisions of the Development plan and the corresponding Development Control Regulations. Therefore, there being no need for the Revenue Officers to separately examine and decide whether or not to grant permission for conversion of use of such lands under the provisions of section 42 and section 44 of the Maharashtra Land Revenue Code, 1966. Hence, it was proposed that, where the Development plan is finally published, the land should be deemed to have been converted to the use as admissible under the Development plan, if the conversion tax, non-agricultural assessment and *nazarana* or premium and other Government dues, as may be applicable in case of lands held on Occupant Class-II, are paid and accordingly, it was proposed that, the Collector, on an application made by a land holder or *suo motu*, shall fix conversion tax and non-agricultural assessment for such land, alongwith *nazarana* or premium and other Government dues as may be applicable, in case of Occupant Class-II lands, after obtaining prior permission of the competent authority, as may be necessary, and intimate such land holder to pay these dues. Where this process has been initiated on the basis of an application made by a land holder, notice to pay this conversion tax, non-agricultural assessment, alongwith *nazarana* or premium and other Government dues, if required, should be issued within 30 days from receipt of application by the land holder in case of Occupant Class-I lands and within 30 days from receipt of permission of the Competent Authority, in case of Occupant Class-II lands. If the conversion tax, non-agricultural assessment and *nazarana* or premium and other Government dues were paid, the *challan* or receipt of such payment shall be regarded as the proof of the land having been converted to non-agricultural use. It was also proposed to revise the non-agricultural assessment of such land as per the revision of Development plan.

Where a land is situated in an area for which draft Regional plan has been prepared and necessary notice regarding such draft plan has been duly published or such Regional plan has been approved and published in the *Official Gazette*, it is proposed that the use of such land should be deemed to have been converted to the corresponding non-agricultural use, once development permission on such land under section 18 of the Maharashtra Regional and Town Planning Act, 1966, is granted, if the conversion tax and non-agricultural assessment and in respect of a land held as Occupant Class-II, *nazarana* or premium and other Government dues levied for such conversion are paid. In such case, no separate permission under sections 42 and 44 of the Maharashtra Land Revenue Code, 1966 shall be required.

Likewise, it was also proposed that where a land is situated in an area for which draft Regional plan or draft Development plan has been prepared and necessary notice has been published or such Regional plan has been approved and published in the *Official Gazette*, the permission to build a farm building given by the Collector under section 18 of the Maharashtra Regional

and Town Planning Act, 1966, or by the Planning Authority should be deemed to be the permission envisaged under section 41 of the Maharashtra Land Revenue Code, 1966, for such farm building.

Accordingly, it was proposed to insert new sections 42B and 42C in the Maharashtra Land Revenue Code, 1966. Upon insertion of the aforesaid proposed provisions in the said Code, no separate non-agricultural permission will be required in the afore-mentioned situations, resulting in saving in time and energy of the land holder and the administration, which will facilitate the Ease of Doing Business.

2. Section 48 of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), provides for Government title to mines and minerals.

With a view to curbing menace of illegal extraction or transportation of minerals, the penalty for illegal extraction or transportation of minerals had been increased from upto three times of market value of such illegally extracted or transported mineral to five times its market value, by amending section 48 of the said Code.

However, it had been brought to the notice of the Government that even for relatively minor irregularities, for want of any discretion in this regard, penalty equal to five times of the market value of the mineral involved in such irregularity, was being levied. The Government, therefore, considered it expedient to amend, said section 48, by providing for levy of penalty upto five times of the market value of the mineral, regarding extraction or transportation of which any irregularity or illegality is observed.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), for the purposes aforesaid, the Maharashtra Land Revenue Code (Amendment) Ordinance, 2017 (Mah. Ord. II of 2017), was promulgated by the Governor of Maharashtra on the 5th January 2017.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,

Dated the 24th March, 2017.

CHANDRAKANT (DADA) PATIL,

Minister for Revenue.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposal for delegation of legislative power, namely :—

Clause 4.—Under this clause, power is taken to the State Government to issue an order for removing any difficulty, which may arise in giving effect to the provisions of the Maharashtra Land Revenue Code, 1966, as amended by this Act, within a period of two years from the date of commencement.

2. The above-mentioned proposal for delegation of legislative power is of a normal character.