



वास्तुकला परिषद
Council of Architecture

(वास्तुविद् अधिनियम, 1972 के अंतर्गत भारत सरकार का एक स्वायत्त सांविधिक निकाय)
(An Autonomous Statutory Body of Government of India, under the Architects Act, 1972)

Ref. No. CA/15(A)/2024/AE
July 31, 2024

The Hon'ble Governor
State of Tamil Nadu
Raj Bhavan – Tamil Nadu,
Guindy, Chennai- 600022
e-Mail: govtam@nic.in

Subject: Violation of the Architects Act, 1972 (A Central Law) – in Tamil Nadu Combined Development and Building Rules, 2019– reg.

Respected Sir,

The Parliament of India enacted the Architects Act, 1972, to provide for registration of Architects throughout the territory of India and to regulate Architectural Education and profession in the country. The Ministry of Education, Government of India, is the Nodal Ministry of the Council.

Pertinent to the matter, may I invite your kind attention towards the Architects Act, 1972 enacted by the Parliament of India in terms of Entry 66 List 1 (Union List) of the Constitution of India and also Entry 26 List 3 (Concurrent List). The field related to "Architects" has already been occupied by the Central Law. ***The State Government is not competent to make any laws to register/licence any person as an architect or lay down any qualification and/or professional competence of Architects in State laws.***

The attention of the Council is drawn towards **Rule 19 and Annexure-XIII of Tamil Nadu Combined Development and Building Rules, 2019** wherein Registration, Qualification and Duties and Responsibilities of Architects in Tamil Nadu have been prescribed and **Architects are required to seek further registration with local Authorities of payment of Rs. 5000/-.**

The registration requirement insists 2 years' experience after Registration as an Architect with Council of Architecture for Architect Grade -I and experience is enhanced for Grade - II but does not prescribed registration as an Architect with Council as mandatory condition. These provisions empowering local bodies for further registration as an Architect are in clear violation of the Architects Act, 1972 and Judgements of several High Courts and Hon'ble Supreme Court of India.

Further, it is observed that non-architects have been allowed to carry on the architectural services though they are not qualified and trained for the same.

Pertinent to the matter, I would like to invite your kind attention towards following judgements:

1. Division Bench Judgement dated 20/06/2000 of Hon'ble Gujarat High Court in SPECIAL CIVIL APPLICATION NO.1111 OF 1999, wherein the Hon'ble High Court has described in detail on the role of architects and Engineers in the construction of Buildings. The relevant paras are as under:
 29. *Architects considering the requirements of the time and need of people have to plan from townships to cities or big complexes such as commercial and residential. They have to bear in mind different requirement of the people in a country. Architects are also required to keep in mind the most important aspect, which is known as 'cost factor'.*

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So far as the Civil Engineers are concerned, ordinarily they are engaged in designing and constructing major structures and facilities bridges, dams, tunnels, tall buildings, factories, highways, airports, railroads and so on. There is a significant contribution by this branch also and has glorified by creation of sanitary system to reduce disease and improve the environment.

Transportation is one branch and it has divisions such as highway, bridge and traffic engineering. Another branch known as structural engineering has to concentrate on the design of bridges and large buildings. Structural engineer may cooperate with an architect, who concentrates on the aesthetic and functional aspects of design while the engineer is concerned with materials, methods of construction and other technical requirements. The present-day sanitary engineer is concerned with water supply and sewerage systems for collecting and processing human wastes. Some Civil Engineers manage the construction of other engineers' design, concerning themselves with the scheduling and coordinating phases of construction and inspection to assure adherence to specifications.

Considering various aspects, it is clear that the function of architects and Civil Engineer cannot be the same. To some extent, the work might be appearing to be overlapping. The Engineer may carry out the work of erecting a building as per the design prepared by the architect. Architect may require supervision of the work carried out by the Engineer. It may be that in some cases one may require assistance of architect and engineer to complete the work but at the same time it must not be forgotten that the legislature has taken note of the fact that architects are professionals and qualifications are enumerated in the schedule to the Architects Act. So far as the Civil Engineers are concerned, nothing has been placed before us indicating that they are required to be enrolled with the statutory body recognized under the Act empowering the statutory body to exercise powers over the members or to take action, such as disciplinary action. An engineer cannot be equated with an architect.

An SLP filed against the above judgement was dismissed by the Hon'ble Supreme Court of India.

2. DIVISION BENCH OF DELHI HIGH COURT IN L.P.A NO. 59 OF 1975 VIDE ORDER DATED 02.04.1980, HELD THAT MCD CANNOT INSIST FURTHER REGISTRATION FROM ARCHITECTS ALREADY REGISTERED WITH THE COA. THIS JUDGEMENT WAS UPHELD BY HON'BLE SUPREME COURT OF INDIA.
3. SINGLE BENCH OF HON'BLE CALCUTTA HIGH COURT IN W.P.NO. 1712 OF 1985 VIDE ORDER DATED 24.07.1989 HELD THAT CALCUTTA MUNICIPAL CORPORATION IS NOT COMPETENT TO IMPOSE ANY RESTRICTION ON ARCHITECTS (licensing of Architects) TO PRACTICE OF PROFESSION.
4. HON'BLE SUPREME COURT OF INDIA IN CIVIL APPEAL NO. 3346-3348 OF 2005, COUNCIL OF ARCHITECTURE V/S MANOHAR KRISHNAJI RANADE & ORS, HELD AS UNDER :
"xxx it is not correct to say that anyone can practice as an architect even if he is not registered under the Architects Act, 1972"
5. The Hon'ble Delhi High Court vide order dated 06.01.2014, held Standards submitted that National Building Code prescribed by Bureau of Indian standards is a guideline and not a statutory document.

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Therefore, no Rules/ Regulations can be made restricting role and competence of Architects in construction of Buildings based on NBC.

A copy each of the order court Orders is enclosed herewith for your kind perusal.

Further, the Ministry of Finance, Government of India vide letter dated 18.12.1997 observed that "Architecture" and "Engineering" are two separate disciplines of technical education and these are two separate professions.

The Education and Training of Architects, Civil Engineers, Structural Engineers are totally different, their professional competence is also distinct and different. Further, Architects are statutory regulated for their professional services under the Architects Act, 1972. However, the Tamil Nadu Combined Development and Building Rules, 2019, prescribes similar role and competence for all persons based on NBC and the same needs amendment.

In view of the above, the Council requests your Honour to issue appropriate directions for amending the Tamil Nadu Combined Development and Building Rules, 2019 for removing:

1. the requirement of seeking registration as an Architect under the Tamil Nadu Combined Development and Building Rules, 2019 by Architects already registered under the Central Law and post registration experience; and
2. Removing the provisions providing competence of non-architects similar to Architects in Rule 19 for design and planning of buildings.

It is humbly requested that the Council of Architecture be kept informed of the action taken in the matter.

Thanking You,

Yours faithfully,

R.K. Oberoi
Registrar

Encl : As above