

प्रेषक:-

प्रधान सचिव,
नगर विकास एवं आवास विभाग
बिहार, पटना।

सेवा में,

नगर आयुक्त,
सभी नगर निगम।
नगर कार्यपालक पदाधिकारी,
सभी नगर परिषद्/सभी नगर पंचायत।

मुख्य कार्यपालक पदाधिकारी,

पटना महानगर क्षेत्र प्राधिकार/बिहारशरीफ आयोजना क्षेत्र प्राधिकार/राजगीर क्षेत्रीय आयोजना क्षेत्र प्राधिकार/गया आयोजना क्षेत्र प्राधिकार/बोधगया आयोजना क्षेत्र प्राधिकार/आरा आयोजना क्षेत्र प्राधिकार/मुजफ्फरपुर आयोजना क्षेत्र प्राधिकार/सहरसा आयोजना क्षेत्र प्राधिकार।

पटना, दिनांक- 07.03.2019

विषय :- वास्तुकला परिषद्, नई दिल्ली से निबंधित वास्तुविदों के संबंध में वास्तुकार अधिनियम, 1972 के प्रावधानों को नगरपालिकाओं एवं आयोजना प्राधिकारों में प्रभावी करने के संबंध में।

प्रसंग :- वास्तुकला परिषद्, नई दिल्ली का पत्रांक-CA/28/2016/AE, दिनांक-03.02.2016 एवं दिनांक-30.03.2017 को प्रकाशित Public Notice।

महाशय,

उपर्युक्त विषयक वास्तुकला परिषद् के प्रासंगिक पत्र एवं Public Notice की छायाप्रति संलग्न करते हुए कहना है कि

(1). वास्तुकला परिषद्, नई दिल्ली से प्राप्त प्रासंगिक पत्र में राज्य सरकारों से अधीनस्थ नगरपालिकाओं/विकास प्राधिकारों आदि से वास्तुविदों के निबंधन से छूट के संबंध में दिशानिदेश निर्गत करने का अनुरोध किया गया है, जो निम्न है :-

i) Not to Register any person as an Architect for practising the profession of an architect under their jurisdiction ; and

ii) Allow architects having valid registration as an Architect from the Council of Architecture to carry on the profession of architecture under their jurisdiction without any registration।

(2). वास्तुकला परिषद् द्वारा प्रकाशित Public Notice में माननीय सर्वोच्च न्यायालय द्वारा दिनांक-14.02.2017 को Civil Appeal Nos. 3346-3348 of 2005 में पारित आदेश के संदर्भ में संबंधित प्राधिकारों से किए गए अनुरोध निम्न हैं :-

i) Only an architect (or firm of registered architects) registered under the Architects Act, 1972 with the Council can practice as an architect in the country. Any person not registered as an architect with the Council be not allowed by the development authorities/local bodies/municipal authorities etc. to practice as an architect under their jurisdiction.

- ii) No development authority/Local body/Municipal authority i.e; Municipal Corporation, Municipal Council, etc. should insist architects registered with the Council to obtain further registration/license to practice as an Architect under their jurisdiction.
- iii) Development Authorities/Local bodies/Municipal Bodies, etc. should not register/license any person as an architect under their jurisdiction.
- iv) The relevant existing building bye-laws/regulations requiring registration/licensing any architects be amended to comply with the provisions of the Architects Act, 1972 and the above Order of the Hon'ble Supreme Court of India.

(3). (i). बिहार नगरपालिका अधिनियम, 2007 की धारा-312(4) में वास्तुकार अधिनियम, 2007 के अधीन रजिस्ट्रीकृत वास्तुकार द्वारा योजना तैयार करने का प्रावधान किया गया है, जो निम्न प्रकार है – "Plan" means a plan prepared by a surveyor, or a draughtsman, or an engineer holding a degree fo Bachelor of Engineering, or an Architect registered under the Architects Act, 1972 |

(ii). बिहार भवन उपविधि, 2014 के उपविधि-2(107) में Registered Architect को परिभाषित किया गया है, जो निम्न प्रकार है – "Registered Architect" means an Architect registered with the Council of Architecture and who has not been debarred by the Authority |

(iii). बिहार भवन उपविधि, 2014 में संशोधन के क्रम में विभाग के स्तर पर वास्तुविदों एवं अन्य तकनीकी व्यक्तियों तथा भवन निर्माताओं के Online Empanelment से संबंधित प्रावधान किए गए हैं, जो स्वीकृति के क्रम में प्रक्रियाधीन है।

उपरोक्त के आलोक में माननीय सर्वोच्च न्यायालय द्वारा पारित आदेश का अनुपालन करने, वास्तुकला परिषद्, नई दिल्ली से पंजीकृत वास्तुविदों द्वारा समर्पित नक्शा भवन उपविधि के तहत स्वीकृति हेतु मान्य किए जाने तथा इस कार्य हेतु इनका अलग से नगरपालिका एवं आयोजना प्राधिकार के स्तर पर निबंधन नहीं किए जाने का तत्काल निदेश दिया जाता है। नक्शा स्वीकृति से संबंधित आवेदन एवं नक्शे पर संबंधित वास्तुविद्, वास्तुकला परिषद् से आवंटित निबंधन संख्या का उल्लेख करेंगे।

अनुलग्नक – यथोक्त।

विश्वामाजिन

7/3/2013

प्रधान सचिव,

नगर विकास एवं आवास विभाग,
बिहार, पटना।

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COUNCIL OF ARCHITECTURE

(A Statutory Body of Govt. of India)

India Habitat Centre, 6A, 1st Floor, Lodhi Road, New Delhi-110003
Ph: 011-79412100, Fax: 011-24647745, website: www.coa.gov.in**PUBLIC NOTICE****ATTENTION : ALL GOVT. DEPARTMENTS/ UNDERTAKINGS, MUNICIPAL CORPORATIONS, DEVELOPMENT AUTHORITIES**

The Parliament of India enacted the Architects Act, 1972 (No. 20 of 1972) to regulate architectural education and profession in the country and to provide for registration of Architects on all India basis and for matters connected therewith. The Act extends to the whole of India.

It is hereby brought to the notice of all concerned that the Supreme Court vide Order dated 14.02.2017, in Civil Appeal Nos. 3346-3348 of 2005, has upheld the Bombay High Court order dated 29th November, 2004 in Writ Petition No. 4692 of 1990, holding that Architects registered under the Architects Act, 1972 would not be required to obtain licenses under the Municipal Authorities like Mumbai Provincial Municipal Corporation (Para 9 of High Court order).

Further, the Hon'ble Supreme Court of India held that "While we find no reason to interfere with the impugned judgment and order dated 29th November, 2004 passed by the Bombay High Court in Writ Petition No. 1830 of 1988 and connected matters, we are of the view that the High Court was in error in rejecting the contention of the appellant that practice under the Architects Act, 1972 is not restricted only to the architects. It is not correct to say that anyone can practice as an architect even if he is not registered under the Architects Act, 1972". A copy of the above Order is available at Council's website.

It is clarified that as per the provisions of the Act, only an architect or a firm of architects can practice as an Architect. Companies and LLPs, non-architects, juridical entities etc. cannot practice as an architect.

Hence, all concerned authorities in country are advised that:

Only an architect (or firm of registered architects) registered under the Architects Act, 1972 with the Council can practice as an architect in the country. Any person not registered as an architect with the Council be not allowed by the development authorities/local bodies/municipal authorities etc. to practice as an architect under their jurisdiction.

No development authority/ local body/ Municipal authority i.e. Municipal Corporation, Municipal Council, etc. should insist architects registered with the Council to obtain further registration/ license to practice as an Architect under their jurisdiction.

Development Authorities/Local bodies/ Municipal Bodies, etc. should not register/ license any person as an architect under their jurisdiction.

The relevant existing building bye-laws/ regulations requiring registration/ licensing of architects be amended to comply with the provisions of the Architects Act, 1972 and the above Order of the Hon'ble Supreme Court of India.

For details of registered architect can be verified from the Council's website www.coa.gov.in

Date: 30.03.2017

New Delhi

Registr



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वास्तुकला परिषद्
Council of Architecture

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

Ref. No. CA/28/2016/AE

February 03, 2016

To

The Chief Secretaries of all the States/ UTs in India

SUBJECT : VIOLATIONS OF THE ARCHITECTS ACT, 1972 (A CENTRAL LAW) BY THE LOCAL AUTHORITIES IN THE STATES/UTs – REG.

Sir,

The Council of Architecture is a Statutory Body established under the Architects Act, 1972 (A Central Act) enacted by the Parliament of India under the nodal Ministry of Human Resource Development, Govt. of India, and vested with the responsibility of prescribing and monitoring standards of architectural education and profession and registering Architects all over India.

The Architects Act, 1972 is a law relatable to Article 19 (6)(i) and also entry 66 of List-I & entry 25 & 26 of List-III to the Seventh Schedule of the Constitution of India.

The Architects Act, 1972, was enacted by the Parliament of India keeping in view the fact that since Independence and more particularly with the implementation of five-year plans, the building construction activity in our country had expanded almost on a phenomenal scale. A large variety of buildings, many of extreme complexity and magnitude, like multi-storeyed office buildings, factory buildings, residential houses were being constructed each year. With this increase in building activity, many unqualified persons calling themselves as architects were undertaking the construction of buildings which were uneconomical and quite frequently were unsafe. In order to protect the general public from unqualified persons working as Architects, the Parliament decided to pass the legislation making it unlawful for any person to designate himself as "architect" unless he has the requisite qualifications and experience and is registered under the Act for carrying on the profession of an architect.

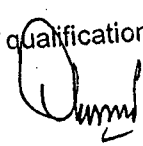
We would like to bring to your kind notice that the Council of Architecture is in receipt of representations from Architects that

- (i) Non-Architects are being issued license/ registration as architects; and
- (ii) Architects registered with the Council of Architecture are insisted to seek registration under the jurisdiction of concerned local bodies of State to practice the profession of architecture.

The above practice of municipal/ development authorities is in utter contravention of the provisions of the Architects Act, 1972. The violation of the provisions is Act a punishable offence.

Pertinent to the matter, may I draw your attention to the two issues involved in the matter :

- a. Who is an Architect ?
- b. Who can register a person possessing recognized qualifications as Architect?



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In this regard, the following provisions of the Architects Act, 1972 are enumerated below for your kind perusal :

- i) Section 2 (a) of the Act defines an **Architect** to mean a person whose name is for the time being entered in the register maintained by the Council.
- ii) Section 2(d) of the Act defines recognized qualifications to mean any qualification in architecture for the time being included in the Schedule or notified under Section 15.
- iii) **Section 35(1) of the Act provides that any reference in any law for the time being in force to an architect shall be deemed to a reference to an architect registered under the Architects Act, 1972.**
- iv) Section 35(2) provides that after the expiry of two years from the date appointed under sub-section (2) of Section 24, (i.e. 27.04.1974), a person who is registered in the register shall get preference for appointment as an architect under the Central or State Government or in any other local body or institution which is supported or aided from the public or local funds or in any institution recognized by the Central or State Government from the public or local funds for in any institution recognized by the Central or State Government.
- v) Section 36 of the Act provides that if any person whose name is not for the time being entered in the register falsely represents that it is so entered, or uses in connection with his name of title any works of letters reasonable calculated to suggest that his name is so entered, he shall be punishable with fine which may extend to one thousand rupees.
- vi) Section 37 (1) of the Act provides that no person except an architect or a firm of architects registered under the Architects Act, 1972, shall use the title and style of an architect and/ or carry on the profession of an architect in India, violation of which is a punishable offence.
- vii) Proviso (b) to Section 37(1) permits a person who, carrying on the profession of an architect in any country outside India, undertakes the function as a consultant or designer in India for a specific project with the prior permission of the Central Government.
- viii) Section 37 (2) of the Act provides that if any person contravenes the provisions of sub-section (1), he shall be punishable on first conviction with fine which may extend to five hundred rupees and on any subsequent conviction with imprisonment with may extend to six months or with fine not exceeding one thousand rupees or with both.
- ix) Section 39 of the Act provides taking cognizance of offences punishable under the Act and for filing of criminal complaints before a first class magistrate.

Therefore, consequent upon enactment of the Architects Act, 1972, by the Parliament of India, which is in force w.e.f. 01.09.1972 all over India, all State and local laws stand automatically repealed to the extent that an Architect is a person who is defined under Sections 2(a) & 35 of the Architects Act, 1972 & other related provisions.

Further, as per the provisions of the Article 254 of the Constitution of India a Central Law prevails over a State law. Therefore, all State laws including Building Bye-laws have to be in conformity with the provisions of the Central Law i.e. the Architects Act, 1972.

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It is also noticed that some Municipalities are following National Building Code (NBC) prescribed by BIS to grant registration as an architect and determine qualification/ competence of Architects. In this regard, it is clarified that the NBC is not a statutory document and merely a guideline. A copy of the Division Bench Judgement of Hon'ble Delhi dated 06.01.2014 is enclosed herewith for your kind perusal.

In addition, I would also like to invite your kind attention towards Division Bench judgement dated 02.04.1980 of Hon'ble Delhi High Court, which held as under :

"xxxx The Architects Act, 1972 is a special law dealing with the qualifications to be possessed by persons for being registered as architects and restricting the term "architect" or "registered architects" to such persons only. Since the possession of a registration certificate under the Architects Act, 1972 is regarded by Parliament as sufficient qualification for the practice of architects and since all related questions have been dealt with in respect of architects by the said Act, it became unnecessary for the Corporation to do so thereafter. xxx"

An SLP filed against this judgement was dismissed by Hon'ble Supreme Court of India on 22.04.1983.

In view of the above, the Council of Architecture requests all the State Governments/ Union Territories to issue directions to all departments and local bodies i.e. Development Authorities, Municipal Corporations, Municipal Council, Improvement Trusts, Slum Development Authorities, etc. under its control to :

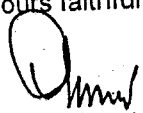
- i) not to Register any person as an Architect for practising the profession of an architect under their jurisdiction ; and
- ii) allow architects having valid registration as an Architect from the Council of Architecture to carry on the profession of architecture under their jurisdiction without any registration.

A Handbook of Professional Document of Council containing Act, Rules, Regulations, etc. is also enclosed herewith for your kind perusal.

This office may be kept posted with the action taken in the matter.

Thanking you,

Yours faithfully,


R. K. Oberoi
Registrar

Encl : As above

Copy for information to:

1. All the Council Members
(Nominees of State Governments on Council)

: With a request to follow the matter with their State Governments.

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BIHAR & JHARKHAND CHAPTER
THE INDIAN INSTITUTE OF ARCHITECTS

REGD. H.O.: PROSPECT CHAMBER ANNEXE, DR. DN ROAD, FORT MUMBAI 400001
PHONE: 22946972 FAX: 22832516

2012-2014

Ar. Neeraj Saunik (A-09895)
CHAIRMAN
C-23, Krishna Apartment,
Boring Road, Patna
2274382(R), 2545575 (O)
9835066972(M)

52/45
73-11-18

TO,
The Secretary
Urban Development & Housing Dept.
Govt. of Bihar.
Sub- Regarding Registration of Architects in ULBs.

Ar. Vishnu K. Choudhary (F-09998)
VICE CHAIRMAN
Choudhary Kumar Consultants
Pandolf Palace, Boring Road
Patna-01.
2535894(O), 9431012776 (M)

Sir,
We the members of Indian Institute of Architects, Bihar & Jharkhand Chapter appreciate the effort taken by You in the process of sanctioning of Building maps.

Ar. Dhananjay Kumar (F-08459)
IMMEDIATE PAST CHAIRMAN
3B/6 'Panchyati', Mahesh Nagar
Road No:- 3B, Patna-24.
2274382(R), 2545575 (O)
9835251016(M), 9771019047(M)

It is found that most of the Local bodies have advertised for the Registration of Architects and Technical persons through the news papers. There are more than hundred ULBs in the State of Bihar and it is nearly impossible and impractical for an Architect to be present physically everywhere for registration. Also asked for hefty registration fees that is Rs 5000 in place of Rs 500 mentioned in the prescribed form.

JT. HON. SECRETARY
Ar. Abhishek Sharma
Ar. Amit Ranjan

Apart from that the Ministry of Corporate Affairs in its circular no 2/2012 clearly says that registration of Architects can only be with the Council Of Architecture through The Architects Act 1972 and it will be liable to be registered as Architects with all the local Bodies on production of the Certificate of Council Of Architecture. There won't be any other charges or clearances needed for the same.

TREASURER
Ar. Kumar Ashesh (A-15528)

The Registrar, Council Of Architecture, New Delhi vide letter no. CA/28/2008/AE dated October 15, 2008 has also conveyed that The Council Of Architecture is established to issue registration to the eligible Architects and these Architects are not required to register themselves with any organization and are eligible to practice anywhere in India.

EXECUTIVE MEMBERS
Ar. Jiwach Kumar

Therefore we request you to kindly do the provisions as follows

Ar. Pradeep Kumar Sinha

Ar. Shyam Prasad

Ar. Arun Kumar Prabhat

Ar. Arun Kumar

Ar. Venkatesh Raman

Ar. Sujeet Bhagat

Ar. Sarvesh Anand

Ar. Fulan Kumar

Ar. Praseon Kumar

Ar. Pawan Kumar

1. Registration of Architects to be continuous process.
2. To Register Architects centrally with Urban Development Department and publish the same in the official web site.
3. No any charges shall be taken for the same.

Thanking You

(Ar. Abhishek Sharma) (Ar. Vishnu Choudhary)

(Ar. Neeraj Saunik)

Abhishek Sharma
13/04/15

Vishnu Choudhary
13/04/2015

Neeraj Saunik
13/04/2015

Jt. Secretary

Vice Chairman

Chairman

enclosure - copies of the order and letters