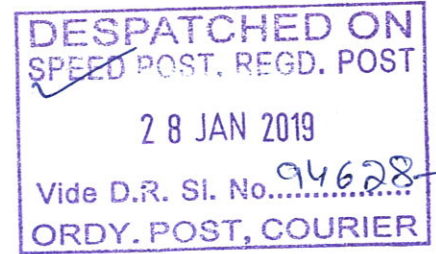


Ref No.CA/15/2019/AE
January 24. 2019



The Hon'ble Governor,
State of Gujarat, Raj Bhawan,
NH 8C, Sector 20,
Gandhinagar,
Gujarat-382021.

The Hon'ble Chief Minister,
Government of Gujarat,
3rd Floor, Swarnim Sankul-1,
New Sachivalaya,
Sector-10, Gandhinagar, Gujarat

Subject: Implementation of the Architects Act, 1972 (Central Government) in the State of Gujarat-reg.

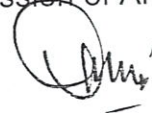
Respected Sir(s),

I am directed to state that the Indian Parliament has enacted the Architects Act, 1972, to regulate Architectural education and profession in the country. The Ministry of Human Resource Development, Government of India, is the Nodal Ministry of the Council of Architecture.

Pertinent to the matter, I would like to state that the Council is receiving repeated representations from registered Architects in Gujarat that they are being compelled to seek further registration by local bodies in the Gujarat in order to carry on the profession of Architect under their jurisdiction.

In this regard, it is informed that the Central Government in the Ministry of HRD, vide its letter No.17-9/81-T.3 dated 19.02.82, letter no. 17-01/83 T.13 dated 13.06.84 and letter no F-17-6/2002-TS.IV dated 19.12.2002 addressed to Chief Secretary of all States/UTs in India had asked all the State Governments/ Union Territories in India to advise the local bodies, namely, Municipal Corporation, Municipalities etc, under their control not to insist Architects registered with the Council of Architecture to seek further registration with the local Bodies. Further, the Hon'ble Bombay High Court, Calcutta High Court, Delhi High Court, and Supreme Court of India have upheld that Architects registered with the Council of Architecture are not required to obtain any license/registration from any local authority in India to carry on their profession.

The Architects Act has been enacted by the Parliament in terms of Entry 66 of List 1 (Union List) of the Constitution of India and also Entry 26 List 3 (Concurrent List). Therefore, the field having been occupied by a Central Law, the State Government is not competent to make any laws to regulate the profession of Architects.



Contd...P/2

Further, in view of the provisions of Article 254 of the Constitution of India a Central Law shall prevail over the State law. Hence, the State Laws (Rules/Bye-laws) made by the State Government laying down the requirement for registration of Architects and payment of fees is directly in conflict with the provisions of the Architects Act, 1972, and shall be void to that extent.

The Council vide its letters dated 24.10.2018, 09.08.2018, 22.05.2018, 22.07.2018, 31.01.2018 & 22.07.2017 has requested the Government of Gujarat to issue directions in the matter to concerned Authorities/ Local Bodies to not to insist Architects to seek registration with the Local Bodies. However, the Council is yet to receive any information on the action taken in the matter.

The Council, therefore, requests your honour to kindly issue appropriate directions to the concerned Departments/Authorities in the state to abide by the provisions of the Architects Act, 1972, and that Architects registered with Council of Architecture are not compelled to seek further registration with the local bodies in the State to practice the profession of Architecture.

I am attaching herewith the copies of communications issued by other State Government to their Departments in compliance of the provisions of the Architects Act.

Thanking you,

Yours faithfully,



R.K. Oberoi
Registrar

Encl: As above

Copy for information and necessary action to:

The Chief Secretary,
Government of Gujarat,
1st Block, 5th Floor, Sachivalaya,
Gandhinagar, Gujarat

The Secretary,
Dept. of Higher Education
Ministry of H.R.D., Govt. of India
Shastri Bhawan,
New Delhi – 110115.



Ref No.CA/15/2018/AE

October 24, 2018

The Chief Secretary,
Government of Gujarat
Block No.1, 5th Floor,
Sardar Bhawan,
Gujarat Sachivalaya
Gandhinagar-382010
Gujarat.

Subject: Registration of Architects under the new Comprehensive GDCR with local bodies in Gujarat-violation of the Architects Act, 1972 (Central Act)-reg.

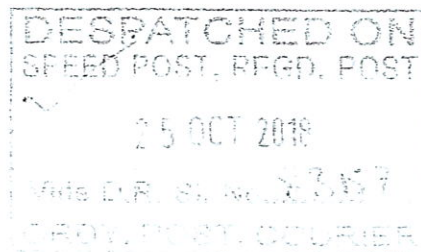
Dear Sir,

I am directed to seek your personal intervention regarding the Gujarat Comprehensive General Development Control Rules 2017 issued by Urban Development and Housing Department Government of Gujarat, insisting Architects to seek registration as an Architect and pay registration fees of Rs.5,000/- for practicing their profession in the State of Gujarat.

The Council has in the past vide its letters dated 22.07.2017, 31.01.2018, 22.05.2018 and 09.08.2018 (copy enclosed for ready reference) requested the Government of Gujarat to modify the Gujarat Development Control Regulations 2017 so as to exclude Architects from seeking further registration with the concerned local bodies in the State of Gujarat and payment of fees to practice the profession of Architect under the jurisdiction of the concerned local bodies.

Pertinent to the matter, may I once again request you to kindly consider that the Parliament of India enacted the Architects Act, 1972 for registration of Architects and for matters conducted therewith. The Act is enforced throughout the territory of India with effect from 01st September, 1972. The main purpose of this Act is to regulate the profession of Architecture and to protect the general public from unqualified person working as Architects and to ensure the compliance of the professional conduct etiquette prescribed for Architects.

The Architects Act has been enacted by the Parliament in terms of Entry 66 of List 1 (Union List) of the Constitution of India and also Entry 26 List 11. Therefore, the field having been occupied by a Central Law, the State Government is not competent to make any laws to regulate the profession of Architects.



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Further, in view of the provision of Article 254 of the Constitution of India a Central law shall prevail over the State law. Hence, the Government Development Control Rules made by the State Government laying down the requirement for registration of Architects and payment of fees is directly in conflict with the provisions of the Architects Act, 1972 and shall be void to that extent.

In terms of the provisions of the Architects Act, 1972 only persons registered with Council of Architecture under the Architects Act, 1972 can use the title and style of Architect for carrying the profession of Architecture. No other body/Authority in India is competent to either issue license or register Architects to control their profession and professional conduct in any manner.

I would like to invite your kind attention towards Division Bench Judgment dated 22/04.1980 by Hon'ble High Court of Delhi in LPA No. 59 of 1975, MCD V/s. Ram Kumar Bhardwaj & Others which held as under:

"xxxxx The Architects Act 1972, as a special law dealing with qualifications to be possessed by persons for being registered as Architects and restricting the term "Architect" or "Registered Architect" to such persons only. Since, possession of a registration certificate under the Architects Act, 1972 is regarded by Parliament as sufficient qualification for 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 xxxxx"

This judgement had also been upheld by the Hon'ble Supreme Court of India vide order dated 22 04 1983 in SPL (Civil) No.6469 and 9396 of 1980.

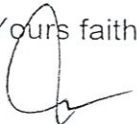
In view of the above, the Council of Architecture once again request the Government of Gujarat to issue appropriate directions for withdrawing the requirement of Registration of Architects and payment of Rs. 5,000/- under the Comprchensive Gujarat Development Control Rules, to carry on profession of Architecture in the State of Gujarat.

The timely action in the matter will not only resolve the above legal crisis but will also help the Architects to pursue their profession smoothly and without any hindrance, since the COA has received several representations from Architects in the matter.

A line in the reply on the action taken will be highly appreciated.

Thanking you,

Yours faithfully,



R.K.Oberoi
Registrar

Encl: As above

Copy for information to:

Ar. Mauktik Trivedi, Chairman
IIA Saurashtra Centre
90, Silver Avenue, Staya Sai Road,
B/h Atmiya College,
Off Kalawad Road,
Rajkot-360005
Gujarat.

