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Non-agricultural Permission.

Recommendations made in the Report on the Reorganisation of Maharashtra Administration. regarding the procedure for grant of..

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GOVERNMENT OF MAHARASHTRA  
Revenue and Forests Department,  
Government Resolution No. LNA-1072/15435-CII.  
Sachivalaya, Bombay-32.  
Dated:- 30th August 1972. (288)

Para 40.19 from the Report on the Reorganisation of Maharashtra Administration.

40.19 (i) As per provisions of the Maharashtra Land Revenue Code, 1966 and the Maharashtra Land Revenue (Conversion of use of land and non-agricultural assessment) Rules, 1969, prescribed thereunder, permission is required for conversion of use of land from one purpose to another. Rule 3 of the Maharashtra Land Revenue Rules, 1969, specifies the form in which such permission may be applied for. Under Section 44(3) of the Code, the Collector is required to give a decision on an application for conversion within 90 days from the receipt of the application. After due enquiries, he may either grant permission or refuse it.

(ii) The sanctioning authority, that is, the Collector or the sub-ordinate Revenue officer to whom the power may be delegated by the Collector, usually obtains a report from the Circle Inspector concerned. The Circle Inspector is expected to verify the particulars given in the application by making an on-the-spot enquiry. In areas covered by the metropolitan regions of Bombay, Poona and Nagpur, the applications are also referred to the town planning authority as per instructions contained in Government Resolution, Revenue and Forests Department, No. NAA-1069/2543-C, dated the 6th February 1970.

(iii) On receipt of the remarks of the Circle Inspector and the town planning authority, the competent authority decides whether permission should be granted or refused. The sanction for conversion is invariably subject to various conditions prescribed in pursuance of Rule 4 of the Maharashtra Land Revenue Rules, 1969.

(iv) The spot enquiries by Circle Inspectors delay sanctions and give scope for corruption. Nevertheless, while admitting that these enquiries delay sanctions and cause hardship to the public, such enquiries are sought to be justified on the following grounds.

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- (a) A person may apply for non-agricultural permission after making construction on his plot, not observing even the building regulations.
  - (b) An applicant may produce false plans showing an incorrect position of his land in the Plan and thus misguide the authority with a view of getting the non-agricultural permission in respect of the land for which he could not have got such permission on account of the situation of the plot or deficiency in the standard area below that prescribed by the building regulations, etc.

(v) As regards building regulations, it will be seen from Rule 4(1) (e) of the Maharashtra Land Revenue Rules that the sanction will invariably require that the structures are constructed in accordance with the plans approved by the appropriate authority. It is only in cases in which the plans are to be approved by Village Panchayats that the sanctioning authority is required to lay down conditions with reference to schedule III of the Maharashtra Land Revenue Rules, 1969. For this purpose, it may be necessary to require the applicant to furnish plans of the proposed structures along with the approval of the appropriate authorities. Whether or not a structure has been constructed in accordance with the building regulations can be verified only after the structure is completed. A spot enquiry carried out before any construction takes place is of no use.

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(vi) Under Rule 4(1) (e) of the Maharashtra Land Revenue Rules, 1969, in areas in which the provisions of chapter 3 of the Bombay Highways Act, 1955 are not in force, the sanctioning authority is also required to lay down conditions taking into account the provisions of schedule II of the said Rules. For this purpose the sanctioning authority is expected to refer to the village map of the relevant area. In case the plot falls within the control line, non-agricultural permission should be given subject to the prescribed minimum distance being maintained.

(vii) The answer to the argument that a person may apply for non-agricultural permission after making construction on his plot is that detection and report of unauthorised uses of land is part of routine work of village officers and is not connected in any way with non-agricultural applications. Besides, the applicant is required to affirm in the application itself that he has not put the land to non-agricultural use already. Further, after the grant of non-agricultural permission and while the intimation thereof is being sent to the village officers, it should always be possible to require the Circle Inspector to visit the site immediately and check up whether the change of use has begun prior to the receipt of permission. It was also noticed in the case of Kalyan Taluka where the non-agricultural activities are quite heavy that the amount imposed by way of fine for starting the non-agricultural use before the permission was nil.

(viii) One of the objectives of Government in providing for prior permission in these cases is to see that non-agricultural assessment is actually levied from the date the land is put to non-agricultural use. Cases in which land may be put to non-agricultural use before such permission is granted can be dealt with under Rule 9 of the Maharashtra Land Revenue Code Rules, 1969.

(ix) The form prescribed under Rule 3 of the Maharashtra Land Revenue Rules, 1969, requires the applicant to furnish a certified copy of the record of rights in respect of the land, as it exists at the time of application and also a sketch or a lay-out of the site in question showing the location of the proposed building or other works for which permission is sought and the nearest roads or means of access. The exact location of the applicant's land can be determined with reference to the particulars given in the certified copy and the sketch checked with reference to the maps available with the sanctioning authority. The correctness of the information furnished by the applicant about location of roads, electrical high transmission lines, accessibility, etc. can also be checked with reference to the maps. According to section 44(2) (c) of the Maharashtra Land Revenue Code, 1966, the sanctioning authority may refuse permission:

(a) If it is necessary to do so to secure the public health, safety and convenience; (290)

(b) If the contemplated use is contrary to any scheme for a planned development of a village; town or city; and

(c) In cases where land is to be used for building sites, in order to secure that the dimensions, arrangement and accessibility of the sites are adequate for the health and convenience of the occupiers or are suitable to the locality.

(x) Applications which may have to be rejected having regard to considerations mentioned at (ix) (a) would normally be those where the applicants want to construct structures for non-residential purposes such as shops, cinema houses, factories, etc. Such cases may require a spot enquiry.

(xi) As regards (ix) (b), the applications may have to be referred to the appropriate town planning authority, in accordance with the instructions contained in Government Circular, Revenue and Forests Department, No. N44- 1069/ 2543-C, dated the 6th February 1970, when necessary. As per these instructions, once the plans become statutorily operative, it will be for the sanctioning authority to ensure conformity with the plans on the basis of the notified plans without the applications being required to be referred to the planning authority.

(xii) The considerations specified at item (ix) (c) relate to observations of building regulations. This matter has been dealt with earlier in sub-para (v).

(xiii) It is thus clear that, for the purpose of ascertaining the circumstances in which permission may have to be refused, it is not necessary to carry out a spot enquiry in every case. It is, therefore, recommended that a spot enquiry should be dispensed with except in cases where the applicant wants to build structures for non-residential purposes. Even in such cases, spot enquiries would not be necessary where development plans exist, as such plans would indicate the areas reserved for commercial and industrial construction.

(xiv) Besides spot enquiries, there are two other items which too can be dispensed with:

(a) In municipal areas, the Collector usually sanctions a lay-out without at the same time giving permission for non-agricultural use. The permission for non-agricultural use is sanctioned subsequently on the basis of the plan of the structure, proposed to be constructed on each individual plot.

(b) When permission for non-agricultural use is sanctioned with reference to the plan for a particular structure, no alteration therein is allowed without the permission of the Collector.

(xv) In municipal areas, the primary responsibility for ensuring conformity with the plan for land use and building regulations would be that of the municipality. Therefore, it should not be necessary for the Collector to sanction the lay-out at all. He may



sanction permission for non-agricultural use only on the basis of a lay-out approved by the municipal authority. It should be presumed that the municipality will regulate building construction as per approved plans and regulations and will not depend on the Collector for the enforcement of plans for land use and building regulations. The duplication resulting from the Collector first sanctioning only the lay-out and then giving permission for non-agricultural use on the basis of the building plan, results in delay and inconvenience to the public and widens the scope for corruption. It would, therefore, be desirable to eliminate this duplication by clearly stipulating that in municipal areas the revenue authorities may rely on the municipal authorities for the enforcement of plans for land use and building regulations and that they may deal with applications for permission for non-agricultural use only with reference to the other considerations specified in the relevant section for the Maharashtra Land Revenue Code and the Maharashtra Land Revenue Rules.

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(xvi) As regards additions and alternations to the approved plan of a structure, it is clearly for the municipal authority to ensure that the building regulations are observed. Once permission for non-agricultural use has been granted by the revenue authority with reference to a plan, it should not be necessary for the applicant to approach the revenue authority again because he proposes to change the plan. For any changes in the plan, he should be required to obtain the approval of the municipal authorities only.

#### RESOLUTION:-

Government had under its consideration the following recommendations in regard to the procedure for grant of Non-Agricultural-Permission, made in the Report on the Reorganisation of Maharashtra Administration.

- (1) The present practice of spot enquiry through the Circle Staff prior to the grant of Non-Agricultural-Permission should be dispensed with;
- (2) In areas where there is a municipal Council or Corporation which undertakes the responsibility of enforcing building regulations, it should not be necessary for the Collector also to sanction the layout, and
- (3) As a corollary, all applications for additions and alternations to the approved plan should also be handled by the Municipal Council/Corporation within their jurisdiction and the Collector should have nothing to do with it.

In regard to these recommendations Government has decided as follows in the following paragraphs.

2. Government has decided to accept the recommendation referred to at (1) in para 1 above. Therefore, hereafter, in the case of application for grant of Non-Agricultural-Permission, it should not be necessary to make spot enquiry prior to the grant of Non-Agricultural-Permission and such

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such enquiry should be dispensed with. However, immediately after the Non-Agricultural-Permission is granted, and while the intimation thereof is being sent to the village officers, the Circle Inspector should be directed to visit the site immediately and check up whether the change of use has begun prior to the receipt of permission. (292)

It is true that where the applicant wants to build structures for non-residential use, spot enquiry prior to the grant of Non-Agricultural-Permission is necessary. However, even in such cases, spot enquiry would not be necessary, where development plan exist and the application for grant of Non-Agricultural-Permission is in accordance with such development plans.

3. Government has decided to accept the recommendation at (2) in para 1 above. Government is therefore, pleased to direct that in areas where there is a municipal Council/ Corporation which undertakes the responsibility of enforcing building regulations, the Revenue authorities need not sanction the layout. (हस्ता लिखित आदेश)

4. Government has also decided to accept partially the recommendation at (3) in para 1 above. In this respect Government is pleased to direct that all applications for additions and alterations to the approved plan not involving change of purpose, should be handled by the municipal Council/Corporation within their jurisdictions and that it should not be necessary to obtain approval of the Revenue authorities for such additions and alterations. However, under the provisions of Section 44(1) (b) of the Maharashtra Land Revenue Code, 1966, fresh permission from Revenue authorities should be necessary in cases in which a change of purpose from the purpose for which permission

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permission was given, is contemplated.

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

B. Deshpande

Section Officer, Government of Maharashtra,  
Revenue and Forests Department.

To,

All Commissioners of Districts

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