


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

June 03, 2024

**The Hon'ble Governor
State of West Bengal**

Raj Bhavan,
Kolkata, -700062

West Bengal

Email: governor-wb@nic.in

Subject: Violation of the Architects Act, 1972 (A Central Law) – in Order no.696/MA/O/C-4/1M-31/2015(Pt.V) dated 12.09.2023 and Order No.161/MA/O/C-4/1M-31/2015 Pt.III dated 19.02.2020 issued by Department of Urban Development & Municipal Affairs, Government of West Bengal regarding West Bengal Municipal (Building) Rules, 2007– reg.

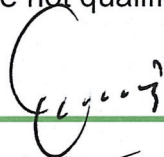
Respected Sir,

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 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 for construction of buildings in West Bengal.

The attention of the Council is drawn towards the Order no.696/MA/O/C-4/1M-31/2015(Pt.V) dated 12.09.2023 and Order No.161/MA/O/C-4/1M-31/2015 Pt.III dated 19.02.2020 of Department of Urban Development & Municipal Affairs, Government of West Bengal, regarding West Bengal Municipal (Building) Rules, 2007, **wherein Architects have been barred from providing their professional services for Low Risk, Medium and High Risk building upto 15.5 meters of building height which has adversely affected their fundamental right to practice the profession of architecture.**

Further, it is observed that non-architects (Licensed Building Surveyor Class II, Structural Engineer Class II and Geo Technical Engineer Class II) have been allowed to carry on the architectural services though they are not qualified and trained for the same.



Contd...p/2



-2-

Pertinent to the matter, I would like to invite your kind attention towards the 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'.*

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.

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-3-

While the Education and Training of Architects, Civil Engineers, Structural Engineers and Geo Technical 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 West Bengal Municipal (Building) Rules, 2007, prescribes similar role and competence for all persons in different type of buildings and require them to work in association with each other and make them individually and collectively responsible for ensuring the safety of building structure.

The Hon'ble Delhi High Court vide order dated 06.01.2014, wherein the Bureau of Indian Standards submitted that National Building Code is a guideline and not a statutory document. Therefore, no Rules/ Regulations can be made restricting role and competence of Architects in construction of Buildings.

In view of the above, it is requested to kindly issue appropriate direction for amending the West Bengal Municipal (Building) Rules, 2007 and the Orders issued, from time to time, to:

1. not to restrict Architects registered with the Council under the Architects Act, 1972 from providing their professional services for in type of building(s) in State of West Bengal.
2. Non-architects be not allowed to provide Architectural Services.

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

Copy for necessary action to :

The Chief Secretary
Government of West Bengal
Secretariat, Nabanna
325, Sarat Chatterjee Road,
Shibpur, **Howrah-711102**