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राजस्थान
जयपुर मेल

राजस्थान सरकार
नगरीय विकास विभाग

क्रमांक: प.12(103)नविवि/2004 पार्ट-IV

जयपुर, दिनांक : 26 OCT 20

1. सचिव, जयपुर विकास प्राधिकरण, जयपुर।
2. सचिव, जोधपुर विकास प्राधिकरण, जोधपुर।
3. सचिव, अजमेर विकास प्राधिकरण, अजमेर।
4. सचिव, राजस्थान आवासन मण्डल, जयपुर।
5. मुख्य नगर नियोजक, राजस्थान, जयपुर।
6. मुख्य नगर नियोजक (एनसीआर), राजस्थान, जयपुर।
7. सचिव, नगर विकास न्यास - बीकानेर/भीलवाड़ा/उदयपुर/अलवर/
भरतपुर/कोटा/श्रीगंगानगर/जैसलमेर/मिवाडी/आबू (सिरोही)/पाली/
सीकर/सवाईमाधोपुर/बाड़मेर/चित्तौड़गढ़
8. अध्यक्ष एवं प्रबन्ध निदेशक, जयपुर मेट्रो रेल कॉर्पोरेशन, राजस्थान, जयपुर।
9. संमस्त जिला कलक्टर (राजस्थान)।

विषय:-माननीय उच्च न्यायालय, जोधपुर डी. बी. सिविल रिट याचिका (पी.आई.एल.)
संख्या 1554/2004 गुलाब कोठारी बनाम राजस्थान सरकार व अन्य में पारित
निर्णय दिनांक 14.10.2017 की पालना सुनिश्चित करने के सम्बन्ध में।

महोदय,

उपरोक्त विषयान्तर्गत निर्देशानुसार लेख है कि माननीय राजस्थान उच्च न्यायालय, जोधपुर में विचाराधीन डी. बी. सिविल रिट याचिका (पी.आई.एल.) संख्या 1554/2004 गुलाब कोठारी बनाम राज्य सरकार व अन्य में माननीय न्यायालय द्वारा दिनांक 14.10.2017 को निम्न आदेश पारित किया है :-

"Heard Mr. M.S.Singhvi, Sr.Advocate assisted by Mr.Vineet Dave, learned Amicus Curiae, Mr. Poonam Chand Bhandari, petitioner present in person and Mr. Rajesh Panwar, Additional Advocate General.

Learned Amicus Curiae has preferred two applications (APPLW No.5106/17 and APPLW No.5107/17).

Vide APPLW No. 5106/17, it is prayed that the Jaipur Development Authority, Jaipur may be directed to produce before this Court the original record originating from the applications of Mangalam Build Developers Limited as well as other applicants with respect to decision taken at Agenda No.6, 7 and Additional Agenda No.6 in the 247th meeting of Building Plan Committee

(1)

(108)

(Layout Plan) dated 29.8.17 of Jaipur Development Authority, Jaipur and further necessary orders or directions may be passed in the matter. It is further prayed that changes/ revision effected in the Master Plans during the pendency of the petition particularly after passing of the interim order dated 9.12.10 by this Court be declared illegal. Further declaration is sought in terms that permission granted in the Jaipur Region in the area marked as ecological zone/ eco- sensitive zone, are illegal. It is also prayed that approval of the industrial township schemes of Mangalam Build Developers as well as schemes of other persons as referred to in the application may not be permitted.

By way of APPLW No. 5107/17, the Amicus Curiae while referring to the commercial construction raised at Paota "C" Road and Nehru Park Road submitted that in defiance of the directions issued by this Court vide order dated 8.8.17 while the matter regarding legality of the constructions permitted as aforesaid is pending consideration before this Court, the respondents have issued yet another auction notice for auction of the commercial land at Bakhat Sagar Scheme, Near Girls School Guide Headquarter which also forms part of the public way.

That apart, vide yet another application (APPLW No. 5243/2017), learned Amicus Curiae has brought on record the Order No. प.18(25)नविदि/ सामान्य/2014पार्ट, dated 04.10.2017 and Circular No. प.2(30)नविदि/03/2016, dated 4.10.17 issued by the Joint Secretary-I, Urban Development and Housing Department and Additional Chief Secretary, Urban Development Department, Government of Rajasthan respectively.

It is noticed that the respondents had earlier taken a categorical stand before this Court that the application of the Mangalam Build Developers Limited, Jaipur was processed as per the order dated 8.2.17 issued by the Department of Urban Development and Housing, under Section 90A of the Land Revenue Act, 1956 inasmuch as the said land area in Master Development Plan of Jaipur 2025 falls in industrial land use.

After due consideration of the rival submissions, on 8.8.17, inter-alia the implementation of the circular dated 8.2.17 was stayed by this Court and thus, the respondent Jaipur Development Authority should not have proceeded with the matter in considering the application of the Mangalam Build Developers Limited pending consideration of the matter before this Court.

But, strangely enough, in the intervening period from the date of conclusion of the arguments on 28.7.17 on the compliance report and the passing of the order dated 8.8.17, yet another order dated 2.8.17 was issued and on the strength of said order dated 2.8.17, the matter of Mangalam Build Developers Limited was considered and plans were sanctioned by the Building Plan Committee (Layout) of Jaipur Development Authority in its 248th meeting dated 15.9.17. The action of the State authorities and the Jaipur Development Authority in circumventing the directions issued by this Court in this manner, deserves to be highly deprecated.

It is also noticed that in continuation of the directions issued vide order dated 12.1.17, vide order dated 8.8.17, inter-alia following specific directions were issued by this Court :-

“(i) The State, Development Authorities and other Local Authorities shall take immediate steps to prepare the Zonal Development Plan/Sector Plan as mandated by the relevant statute and the Master Development Plan of various cities. In the meanwhile and until further orders, no regularisation of unauthorised possession/constructions shall be permitted unless the same conforms to the land use plan and other norms laid down under the Master Development Plan and Zonal Development Plan/Sector Plan of the concerned city.”

In view of the directions issued by this Court as aforesaid, no regularisation of unauthorised possession or constructions can be permitted by the Development Authorities or Local Authorities or State Authorities till the Zonal Development Plan and Sector Development Plan as mandated by the relevant statutes and Master Development Plan of various cities and towns are finalized.

It is the categorical stand taken by the learned Additional Advocate General before this Court that the matter with regard to finalization of the Zonal Development Plan and Sector Development Plan is still in process. However, ignoring the unequivocal directions issued by this Court, the Additional Chief Secretary, Urban Development Department, Government of Rajasthan, has issued the circular No. प.2(30)नविदि/03/2016, dated 4.10.17 for regularization of possession/ unauthorized constructions in the urban area covered by the Master Plan including peripheral control belt. The proceedings are directed to be initiated for regularization of the unauthorized possessions/constructions by individual as also colonies developed by the colonizers up to 1.1.17 by way of transferring the land by the Local Authorities and Development Authorities to the Gram Panchayat.

To say the least, the action of the State in issuing the circular for regularization of the unauthorized possessions and constructions without finalization of Zonal Development Plan and Sector Development Plan of the cities and towns where the Master Plans are in operation, is in clear defiance of the directions issued by this Court.

Learned Additional Advocate General submits that the Order प.18(25) नविदि/सामान्य/2014 पार्द, dated 4.10.17 already stands withdrawn by the State Government. It is submitted that the shops constructed by the allottees at Paota "C" Road and Nehru Park Road in defiance of the Court's order already stand seized by the Municipal Corporation, Jodhpur and the auction scheduled to be held at Bakhat Sagar Scheme, Near Girls School Guide Headquarter has been kept in abeyance.

Learned Additional Advocate General seeks two weeks' time to respond to the applications preferred on behalf of the learned Amicus Curiae as aforesaid, as also to make further submissions regarding the compliance of the directions issued by this Court. List the matter on 2.11.17 at 2.00 PM as prayed.

In the meanwhile and until further orders, the effect and operation of the order प.12(103)नविवि/2004पार्ट-III dated 2.8.17 issued by the Joint Secretary-I, Urban Development Department, Government of Rajasthan and Circular No. प. 2(30) नविवि/03/2016, dated 4.10.17 issued by the Additional Chief Secretary, Urban Development Department, Government of Rajasthan, shall remain stayed. The Local Authorities, Development Authorities and the State Authorities are restrained from regularizing unauthorized possession/ constructions over any land till the Zonal Development Plan/ Sector Development Plan of various cities and towns where the Master Plans are in operation, are finalized."

कृपया माननीय न्यायालय द्वारा पारित उक्त आदेश की पालना करवाया जाना सुनिश्चित करें।

(राजेंद्र सिंह शखावत)
संयुक्त शासन सचिव-प्रथम

प्रतिलिपि:-निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है :-

1. श्री एन. एम. लोढा, महाधिवक्ता महोदय, राजस्थान उच्च न्यायालय, जयपुर।
2. निजी सचिव, अतिरिक्त मुख्य सचिव, नगरीय विकास विभाग, शासन सचिवालय, जयपुर।
3. प्रमुख शासन सचिव, राजस्व विभाग, शासन सचिवालय, जयपुर को प्रेषित कर निवेदन है कि माननीय उच्च न्यायालय द्वारा पारित आदेश दिनांक 14.10.2017 की पालना सुनिश्चित कराने का श्रम करें।
4. प्रमुख शासन सचिव, स्वायत्त शासन विभाग, शासन सचिवालय, जयपुर।
5. संयुक्त शासन सचिव-प्रथम/द्वितीय/तृतीय, नगरीय विकास विभाग, शासन सचिवालय, जयपुर।
6. अतिरिक्त मुख्य नगर नियोजक, नगरीय विकास विभाग, शासन सचिवालय, जयपुर।
7. वरिष्ठ संयुक्त विधि परामर्शी/उप विधि परामर्शी, नगरीय विकास विभाग, शासन सचिवालय, जयपुर।
8. निदेशक, स्वायत्त शासन विभाग, निदेशालय, जयपुर को प्रेषित कर लेख है कि पत्र की प्रति समस्त नगर निकायों को पालना हेतु भिजवाया जाना सुनिश्चित करें।
9. वरिष्ठ उप शासन सचिव, नगरीय विकास विभाग, शासन सचिवालय, जयपुर को प्रेषित कर लेख है कि समस्त विभागों/संस्थाओं में तत्काल मेल करवाकर विभाग की वेबसाइट पर आज ही अपलोड करवाया जाना सुनिश्चित करें।
10. श्री आर. के. विजयवर्गीय, वरिष्ठ नगर नियोजक (प्रभारी अधिकारी केस), कार्यालय निदेशक, स्वायत्त शासन विभाग, निदेशालय, राजस्थान, जयपुर।
11. गार्ड फ़ाइल।
12. रक्षित फ़ाइल।

(राजेंद्र सिंह शखावत)
संयुक्त शासन सचिव-प्रथम