

CIVIC LAWS (SPECIAL PROVISIONS) ACT, 2014

[Act No. III of 2014]

[As amended by Act No. VI of 2017, dt. 8.7.2017]

[Received the assent of the Governor on 5th March, 2014 and published in the Government Gazette dated 5th March, 2014]

An Act to make certain temporary provisions for the local areas of Jammu, Katra and Srinagar and for matters connected therewith or incidental thereto.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-fifth Year of the Republic of India as follows:—

1. Short title, extent and commencement

(1) This Act may be called the Jammu and Kashmir Civic Laws (Special Provisions) Act, 2014.

(2) It shall be deemed to have come into force from the date of its publication in the Government Gazette and shall cease to exist on ¹[30th day of September, 2017]; and

(3) It extends to the local areas of Jammu, Srinagar and Katra notified under the provisions of the Jammu and Kashmir Development Act, 1970.

2. Definitions

In this Act, unless the context otherwise requires,—

- (a) “building” includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;
- (b) “Government” means Government of Jammu and Kashmir;
- (c) “local area” means any area declared to be a local area under sub-section (1) of section 3 of the Jammu and Kashmir Development Act, 1970; and
- (d) “local authority” means Srinagar Municipal Corporation, Srinagar Development Authority, Jammu Municipal Corporation, Jammu Development Authority and Katra Development Authority under the Jammu and Kashmir

¹ Substituted for “31st day of March, 2017” by Act No. VI of 2017, dt. 8.7.2017, w.e.f. 1.4.2017.

Development Act, 1970, the Jammu and Kashmir Municipal Act, 2000 and the Jammu and Kashmir Municipal Corporation Act, 2000;

- (e) "master plan" means master plan for Jammu, Katra and Srinagar with perspective for the year 2021;
- (f) "punitive action" means action by a local authority under the relevant law against unauthorized development and shall include sealing of premises, demolition and displacement of persons or their business establishments from their existing location, whether in pursuance of court orders or otherwise;
- (g) "unauthorized construction" means construction of building carried out in contravention to the sanctioned plan or without obtaining the sanction from competent authority;
- (h) words and expressions used but not defined shall have the same meaning as assigned to them under the Jammu and Kashmir Development Act, 1970, the Jammu and Kashmir Municipal Act, 2000, the Jammu and Kashmir Municipal Corporation Act, 2000 and the Jammu and Kashmir Control of Building Operations Act, 1988.

3. Government to formulate policy to deal with unauthorized constructions

Nothing contained in any law, rule, regulation, bye-law or order, for the time being in force in the State, shall prevent the Government from formulating a policy before ¹[30th day of September, 2017] to deal with or regulate unauthorized construction of buildings or structures in the local areas to which this Act applies:

Provided that such policy shall be in consonance with the master plan as may be modified or reviewed under sub-section (2) of section 12 of the Jammu and Kashmir Development Act, 1970.

4. No action to be taken pending formulation of Policy

(1) Notwithstanding anything contained to the contrary in any law, rule, regulation, bye-law or order for the time being in force or any judgment, decree or order of any court or tribunal, no building or structure shall be demolished or sealed, and no penalty shall be imposed in respect of such building or structure, on the ground of such building

or structure having been constructed or erected in violation of master plan pending finalization of the policy under section 3:

Provided that the provisions of sub-section (1) shall not apply to such building or structure which has been constructed after coming into force of this Act ¹[after 31st of December, 2016] or does not confirm to the safety standards as laid down by the Government from time to time.

(2) All notices issued by any local authority for initiating action against unauthorized constructions or master plan violation in respect of areas to which this Act applies shall be deemed to have been suspended until ²[30th day of September, 2017], or until a policy is formulated by the Government, whichever is earlier.

(3) If any local authority intends to take any punitive action against any person in respect of buildings or structures that have come up prior to coming into force of this Act for contravening any provisions of the Jammu and Kashmir Development Act, 1970, the Jammu and Kashmir Municipal Act, 2000, the Jammu and Kashmir Municipal Corporation Act, 2000 and the Jammu and Kashmir Control of Building Operations Act, 1988 or any law, rule or bye-law for the time being in force in the State, prior permission of Administrative Secretary of the Housing and Urban Development Department, or an officer authorized by him in this behalf, shall be obtained before taking any such action.

NOTES

Effect of Act of Municipal Corporation Act, 2000

Effect of Act of Municipal Corporation Act, 2000 — Vis-a-vis Section 7, 3, 12, 16 r/w SRO 391 dated 20th September 2017, Section 3, 4 of Civic Laws (Special Provisions) Act, 2014 — No action to be taken pending formulation of Policy — Even if any law, rule, regulation, bye-law or order, or even any judgment, decree or order passed by any court or tribunal, no building or structure shall be demolished or sealed and even no penalty shall be imposed in respect of such building or structure that has been erected or constructed in violation of master plan till policy in terms of Section 3 of Act of 2014 is finalised — Alleged violation/deviations had taken place in the year 2011 and present case comes and falls within ambit of Act of 2014 — Petition dismissed.—*Building Operation Controlling Authority v. Suman Bhagat & Anr. 2018 (2) JKJ 314[HC]*

5. Act not to apply in certain case

The provisions of this Act shall not apply to—

¹ Substituted for "31st day of March, 2017" by Act No. VI of 2017, dt. 8.7.2017, w.e.f. 1.4.2017.

¹ Inserted by Act No. VI of 2017, dt. 8.7.2017, w.e.f. 1.4.2017.

² Substituted for "31st day of March, 2017" by Act No. VI of 2017, dt. 8.7.2017, w.e.f. 1.4.2017.

- (a) buildings or structures which had not been completed ¹[on 31st of December, 2016] or which are currently under construction; and
- (b) buildings or structures constructed or erected on public land, public road or any other public utility.
- (c) buildings or structures not complying with the directions with respect to safety, if any, issued by the Government.

6. Government to issue directions

The Government may, from time to time issue such directions to the local authorities as it may deem fit for giving effect to the provisions of this Act.

¹ Substituted for "on the date of commencement of this Act" by Act No. VI of 2017, dt. 8.7.2017, w..e.f. 1.4.2017.