No. 35-Leg/2016 Dated 21/10/2016

PART I

GOVERNMENT OF PUNJAB

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

NOTIFICATION

The 21st October, 2016

No. 35-Leg./2016.-The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 18th Day of October, 2016, is hereby published for general information:-

THE PUNJAB LAWS (SPECIAL PROVISIONS) ACT, 2016.

(Punjab Act No. 28 of 2016)

AN

ACT

to make special provisions for resolving the problems associated with the development of unauthorized colonies and thereby leading to infrastructure issues in the State of Punjab within a period of six months and for the matters connected therewith or incidental thereto.

Whereas phenomenal increase in the population owing to migration has put tremendous pressure on land and infrastructure in Punjab resulting in developments which are not in consonance with the master plan of cities and towns and the Punjab Apartment and Property Regulations Act, 1995, in the State;

Whereas the Government has constituted a Committee of Experts to look into the various aspects of unauthorized colonies and suggest a comprehensive strategy to deal with them;

Whereas a strategy is proposed to be prepared by the Government in the State of Punjab in accordance with the Punjab Housing and Habitat Policy for Urban Housing to all;

Whereas action for violation of the provisions of the Punjab Regional and Town Planning and Development Act, 1995 and the Punjab Apartment and Property Regulations Act, 1995, is causing avoidable hardship and irreparable loss to a large number of people;

Whereas some time is required for making orderly arrangements for solving problems of areas under unauthorized colonies;

Whereas it is expedient to have a law to provide temporary relief to the people of the State of Punjab against such action for a period of six months

within which various policy issues referred to above are expected to be finalized;

And whereas the Punjab Laws (Special Provisions) Act, 2013 was enacted for a period of one year from the date of its commencement and further the Punjab Laws (Special Provisions) Act, 2014 was again enacted for a period of one year from the date of its commencement and the said period of one year of the operation of the Punjab Laws (Special Provisions) Act, 2014 has expired on the 5th day of February, 2016. A large number of applications for regularization of unauthorized colonies, plots and buildings have been received under the said Acts but a large number of people including Non Resident Indians and the persons working outsice the State of Punjab comprising the personnels of Defence Forces and Para Military Forces who could not apply earlier for regularization of unauthorized colonies, plots and buildings shall also get an opportunity for regularization of their plots/buildings falling in unauthorized colonies.

BE it enacted by the Legislature of the State of Punjab in the Sixty-seventh Year of the Republic of India as follows:-

Short title and commencement.

1. *(1)* This Act may be called the Punjab Laws (Special Provisions) Act, 2016.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

(3) It shall cease to operate on the expiry of six months from the date of its commencement, except as respects things done or omitted to be done before such cease, and upon such cesser section 6 of the General Clauses Act, 1897 shall apply.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "colony" means an area of land not less than one thousand square meters divided or proposed to be divided into plots for residential, commercial or industrial purpose;

(b) "competent authority" means any person or authority appointed under section 8 of this Act;

(c) "Government" means the Government of the State of Punjab;

(d) "master plan" means master plans prepared and notified under the Punjab Regional and Town Planning and Development Act, 1995;

(e) "public land" means land owned by the Central or the State Government, Boards and Corporations owned by the Central or the State Government, Public Sector Undertakings constituted under any law and the local authorities;

(f) "punitive action" means action taken by the local authority or the special urban planning and development authority under the relevant law against unauthorized development and shall include demolition, displacement of persons or their business establishment from their existing location, whether in pursuance of court orders or otherwise;

(g) "section" means a section of this Act; and

(h) "unauthorized colony" means a colony and includes 'apartment' which has been established by the person or promoter in contravention with the provisions of the Punjab Apartment and Property Regulations Act, 1995 (Punjab Act 14 of 1995)

(2) The definitions of the expressions 'apartment', 'authority', 'development charges', 'development works', 'external development works', 'internal development works', 'local authority', 'person', 'promoter' or any other word used in this Act, but not defined shall have the respective meanings as assigned to them in the Punjab Regional and Town Planning and Development Act, 1995 and the Punjab Apartment and Property Regulations Act, 1995.

Enforcement to be kept in abeyance.

3. (1) Notwithstanding anything contained in any other State law for the time being in force in the State of Punjab, any judgment, decree or order of any court or other authority to the contrary, any rules, regulations or byelaws made thereunder, the Government shall, within a period of six months from the commencement of this Act, take all possible measures to finalize norms, policy guidelines and feasible strategies to deal with the problem of unauthorized colonies with regard to the under-mentioned categories, namely:-

(a) land use in contravention of the Master Plan of the area prepared under the provisions of the Punjab Regional and Town Planning and Development Act, 1995;

(b) laid any unauthorized colony in contravention of the provisions of the Punjab Apartment and Property Regulation Act, 1995;

(c) erected or re-erected unauthorized buildings in a colony in contravention with the provisions of the Punjab Regional and Town Planning and Development Act, 1995 or the Punjab Municipal Corporation Act, 1976 or the Punjab Municipal Act,

1911 or the Punjab Town Improvement Act, 1922 or any other law for the time being in force prior to commencement of this Act, shall be deemed to have been suspended and no further punitive action shall be taken during the aforesaid period of six months. However, after the expiry of period of six months, the prosecution proceedings shall be continued in the cases, which are pending in the competent court of law except in the cases where the offence has been compounded and plot or building, as the case may be, has been regularized by the competent authority under the aforesaid Act.

(2) All notices issued by any local authority for initiating action against the categories of unauthorized colonies referred to in sub-section *(1)*, shall be deemed to have been suspended and no punitive action shall be taken during the said period of six months.

(3) Notwithstanding anything contained in this Act, the Government may, at any time before the expiry of six months, withdraw the exemption by notification in the Official Gazette in respect of one or more of the categories of unauthorized development mentioned in sub-section *(1)*.

Disposal of pending applications.

4. *(1)* All pending applications received under the Punjab Laws (Special Provisions) Act, 2013 and the Punjab Laws (Special Provisions) Act, 2014 by the Department of Housing and Urban Development and the Department of Local Government, shall also be dealt with under this Act.

(2) If there is any pendency of applications received for regularization of unauthorized colonies under this Act, the same shall be allowed to be dealt with even after the expiry of period of six months provided that no new application shall be entertained after the expiry of this Act.

Regularization of unauthorized development.

5. Notwithstanding anything contained in any other State law for the time being in force and subject to payment of fee, development charges and fulfillment of terms and conditions, as may be determined in the policy to be framed by the Government under this Act, the development shall be deemed to be regularized under the provisions of the respective Act, where action has been initiated for such violations.

Provisions of this Act not to apply in certain cases.

6. During the period of operation of this Act, no relief shall be available under the provisions of section 3 in respect of the following categories of unauthorized development, namely:-

(a) any construction unauthorisedly started or continued on or after the **1st day of April, 2013;**

(b) encroachment on public land;

(c) area, which is notified under the Land Acquisition Act, 1894, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Forest (Conservation) Act, 1980, the Punjab Land Preservation Act, 1900, the Environment (Protection) Act, 1986 and the Works of Defence Act, 1903 or an area covered under any other Central or State Act; and

(d) any type of building as may be decided by the Government.

Entitlement of claim.

7. No person shall be entitled to claim any benefit or relief unless all the terms and conditions have been fulfilled and the requisite fee and development charges, as specified by the Government, have been deposited.

Competent Authority.

8. The Government may, by notification in the Official Gazette, appoint competent authority to exercise and perform all or any of the powers and functions of the competent authority under this Act.

Powers and functions of the competent authority.

9. *(1)* Any person intending to get unauthorized colony or plot or building regularized under this Act, shall apply in writing to the competent authority for permission in such form containing such particulars and accompanied by such documents and plans, as may be specified by the competent authority.

(2) On receiving application having been duly made under sub-section *(1)* and on payment of change of land use, development charges, license fee or permission fee, social infrastructure fund, compounding fee, the competent authority may pass an order:-

(i) granting permission unconditionally; or

(ii) granting permission subject to such conditions as it may think necessary to impose; or

(iii) refusing permission; and

(iv) where permission is granted subject to the conditions or is refused on the ground of imposing such conditions, such refusal shall be recorded in the order and such order shall be communicated to the applicant.

Appellate Authority.

10. The Government may, by notification in the Official Gazette, appoint an officer or an authority as appellate authority, to decide appeals against the orders of the competent authority:

Provided that the Government may appoint as appellate authority more

than one officer or authority and distribute the work amongst them in the manner as it may deem fit.

Appeal against the orders of the competent authority.

11. *(1)* Any person aggrieved by any order of the competent authority under this Act, may within a period of thirty days from the communication of the order to him, prefer an appeal to an appellate authority in such form and manner, as may be specified.

(2) The appellate authority may, after giving an opportunity to be heard to the parties and to the competent authority, pass such order, as it may deem fit, either confirming, modifying or setting aside the order of the competent authority, and record its reasons in writing and the order of the appellate authority shall be final.

(3) In discharging its functions, the appellate authority shall have all the powers under the Code of Civil Procedure, 1908 of a civil court while deciding an appeal.

Power of Government to give directions.

12. The Government may, from time to time, issue such directions to the competent authority as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of the competent authority to comply with such directions.

Protection of action taken in good faith.

13. *(1)* No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or any regulation made thereunder.

(2) No act done or proceedings taken under this Act by the competent authority shall be invalid merely on the ground of existence of any vacancy or by reasons of defect or irregularity in its constitution or absence of any officer in its meeting.

Bar of jurisdiction of courts.

14. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered by this Act or the rules or regulations made thereunder.

Power to make policy.

15. The Government may, by notification in the Official Gazette make policy for carrying out the purposes of this Act.

VIVEK PURI,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.

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