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THE TELANGANA GAZETTE
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No. 28] HYDERABAD, MONDAY, DECEMBER 26, 2016.

TELANGANA BILLS
TELANGANA LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Telangana Legislative Assembly on 26th December, 2016.

L.A. BILL No. 28 OF 2016

**A BILL FURTHER TO AMEND THE GREATER
HYDERABAD MUNICIPAL CORPORATION ACT,
1955.**

Be it enacted by the Legislature of the State of Telangana in the Sixty-seventh year of the Republic of India as follows:-

1.(1) This Act may be called the Greater Hyderabad Municipal Corporation (Second Amendment) Act, 2016.

Short title
and
commence-
ment.

[1]

B. 248-1

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Substitu-
tion of
section 452.
(Act II of
1956)

2. In the Greater Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as the principal Act), for section 452, the following shall be substituted, namely,-

"452. Demolition or alteration of the building work unlawfully commenced, carried on or completed and appeal thereon.

(1) If the Commissioner is satisfied that the construction or re-construction of any building or execution of any work as described in section 433 is commenced or carried out contrary to the provisions of the Act or building rules or bye-laws made thereunder, he shall make a provisional order requiring the person who is constructing or re-constructing such building or executing such work or has constructed or re-constructed such building or executed such work to demolish such unauthorized construction or re-construction or work within a period specified to bring such construction or re-construction of the building or work in conformity with the provisions of the Act or building rules or Bye-laws made thereunder and may also direct that until the said order is complied with, the concerned person shall refrain from proceeding with such construction or reconstruction of the building or work.

(2) The Commissioner shall serve a copy of the provisional order made under sub-section (1) on such person mentioned in sub-section (1) with a notice requiring him to show cause within a reasonable time to be specified in such notice as to why the order should not be confirmed.

(3) If the person mentioned in sub-section (1) fails to show cause to the satisfaction of the Commissioner, he may confirm the order with such modification as he thinks

fit and serve the confirmation order on such person and such order shall be binding on such person; and such person shall be liable for carrying out the requisitions of the Commissioner within the period specified in such confirmation order.

(4) If within the period specified in such confirmation order, the requisitions contained therein are not carried out by such person the Commissioner may demolish such unauthorized construction or reconstruction or work and the expenses thereof shall be recoverable from the said person.

(5) Any person aggrieved by an order of the Commissioner made under sub-section (3) may, within fifteen days from the date of receipt of the order prefer an appeal against the order to the Municipal Building Tribunal appointed under section 462-A.

(6) Where an appeal is preferred under sub-section (5) against an order made under sub-section (3), the Municipal Building Tribunal may stay the enforcement of the order on such terms, and for such period, as it may think fit:

Provided that where the construction or re-construction of the building or the execution of the work has not been completed at the time of the order made under sub-section (3), no order staying the enforcement of the order made under that sub-section shall be made by the Municipal Building Tribunal unless a surety, sufficient in the opinion of the said Tribunal, has been given by the appellant for not proceeding with such construction or re-construction or work pending the disposal of the appeal.

(7) Save as provided in this section, no court shall entertain any suit, appeal, application or other proceeding for injunction or other relief against the Commissioner to restrain him from taking any action or making any order in pursuance of the provisions of this section.

(8) Every order made by the Municipal Building Tribunal on appeal and, subject to such order, the order made by the Commissioner under sub-section (3) shall be final and conclusive.

(9) Where no appeal has been preferred against an order made by the Commissioner under sub-section (3) or where an order under that sub-section has been confirmed on appeal, whether with or without modification, the person against whom the order has been made shall comply with the order within the period specified therein, or as the case may be, within the period, if any, fixed by the Municipal Building Tribunal on appeal, and on the failure of such person to comply with the order within such period, the Commissioner may himself cause the building or the work to which the order relates to be demolished and the expenses of such demolition shall be recoverable from such person as arrears of property tax under this Act.

3. In the principal Act, for section 461-A, the following shall be substituted, namely,-

Substitu-
tion of
section
461-A.

*461-A. Powers
to seal unautho-
rised
construction/
development of
premises

(1) It shall be lawful for the Commissioner, at any time, before or after making an order for the removal or discontinuance of any unauthorized development or construction under section 461, to make an order directing the sealing of such development or property or taking the assistance of police, for the purpose of carrying out the provisions of the Act.

(2) Any person aggrieved by an order of the Commissioner made under sub-section (1) may, within seven days from the date of the order, prefer an appeal against the order to the Municipal Building Tribunal appointed under section 462-A.

(3) Where an appeal is preferred under sub-section (2) against an order made under sub-section (1), the Municipal Building Tribunal may stay the enforcement of the order on such terms, and for such period, as it may think fit.

(4) Save as provided in this section, no court shall entertain any suit, appeal, application or other proceeding for injunction or other relief against the Commissioner to restrain him from taking any action or making any order in pursuance of the provisions of this section.

(5) Every order made by the Municipal Building Tribunal on appeal and, subject to such order, the order made by the Commissioner under sub-section(1) shall be final and conclusive.

(6) Where no appeal has been preferred against an order made by the Commissioner under sub-section (1) or where an order under that sub-section has been confirmed on appeal, whether with or without modification, the Commissioner shall take action to implement the order made under sub-section(1).

(7) No person shall remove such seal except,-

(a) Under an order made by the Commissioner, or

(b) Under an order of the Municipal Building Tribunal on the appeal made in the behalf.”

4. In the principal Act, after section 462, the following section shall be inserted, namely,-

Insertion
new section
462-A.

"462-A.
Municipal
Building
Tribunal.

(1) The State Government shall appoint a Municipal Building Tribunal or Tribunals (hereinafter referred to in this section as "the Tribunal") to hear and decide appeals arising out of matters referred to in Section 452 or Section 461-A and to adjudicate the offences relating to contravention of provisions of the Act mentioned in Schedule-U and Schedule-V in respect of Chapter – XII, namely Building Regulations under sections 596 and 597 in accordance with such procedure, and to realize such fees or fines in connection with such appeals as may be prescribed.

(2) The Tribunal shall consist of a Chairperson and such number of other members, not exceeding eight as the State Government may determine. The members shall consist of judicial members and technical members.

(3) The Chairperson may constitute one or more Benches, each Bench comprising at least two members one of whom shall be a judicial member and another a technical member.

(4) The Chairperson or a judicial member shall be a person who is or has been a District Judge.

(5) A technical member shall be a person who is working in the cadre of Director of Town and Country Planning in Telangana Town Planning Service.

(6) The Chairperson and the other members of the Tribunal shall be appointed by the State Government for such period, and on such terms and conditions, as the

State Government may determine and shall be paid from the Municipal Fund.

(7) The State Government may, if it thinks fit, remove for reason of incompetence or misconduct or for any other good or sufficient reason the Chairperson or any other member of the Tribunal.

(8) The Tribunal shall have an establishment consisting of such officers and other employees, appointed on such terms and conditions, as may be prescribed, and the expenses of the Tribunal shall be paid out of the Municipal Fund.

(9) The provisions of Part II and Part III of the Limitation Act, 1963 (Central Act No.36 of 1963), relating to appeal shall apply to every appeal preferred under this section.

(10) No court shall have jurisdiction in any matter for which provision is made in this Chapter for appeal to the Tribunal."

5. The amendments made to the Greater Hyderabad Municipal Corporation Act, 1955 by section 2 shall extend to and apply to other Municipal Corporations constituted under the provisions of Telangana Municipal Corporations Act, 1994.

Application of provisions of section 2 to

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STATEMENT OF OBJECTS AND REASONS

Unauthorized constructions are seriously affecting the planned development of the cities and causing various problems to the community at large. As per the existing provisions of the Municipal Acts, two options are available to Municipal Authorities for controlling unauthorized constructions:

i) Launching of prosecution in a Court of Law under Section 598 against the persons who contravene certain sections given in table under section 598 and levy of penalties as mentioned in Schedule-U of the GHMC Act, 1955. Further, exemplary fines can also be levied which are ranging from 200% to 600% of the value of the land in question for the extent of violated floor area.

ii) Demolition of unauthorized constructions under section 452 read with section 636 of the Act.

2 Further, it is observed that when the Municipal Authorities issue notices for stopping the unauthorized constructions, the concerned persons are filing petitions / suits in the Courts and getting stay orders / injunction orders / status-quo orders and restraining the Municipal Authorities from taking further action on the unauthorized constructions. It is noticed that in some cases Hon'ble Courts are issuing these orders even in the absence of issuance of notices by municipal authorities. In a majority of the cases, the petitioners after getting the order of injunction from the Courts, continue the construction activities and completing the construction of unauthorized buildings and causing lot of problems to the community at large. It is also noticed that these unauthorized buildings are also being sold to third parties, which leads to making this problem more complicated and creating several problems to the purchasers of these buildings. Therefore, there is urgent need to control unauthorized constructions in the larger interest of the community and to take expeditious action on the cases pending in various courts in respect of unauthorized constructions.

3. Rule 27 (b) of Building Rules, 2012, "Empowers the State Government to constitute a Town Planning and Building Tribunal for dealing with all town planning, enforcement and building issues by making necessary amendments to the corresponding Acts if required" and the Hon'ble High Court in W.P.No.34990/2015 in their order dt.19.5.2016 have directed the

Government to consider constitution of Town Planning Tribunal in light of the observations made in the said judgment and take decision which due expedition and posted the matter on 14.10.2016 for submission of compliance report by the Government.

4. Therefore, in order to control the unauthorized constructions at the initial stage itself and for speedy disposal of cases relating to buildings, it was decided by the Government to constitute a Municipal Building Tribunal or Tribunals by suitably amending the Greater Hyderabad Municipal Corporation Act, 1955 with substitution of Section 452, 461-A and adding new Section 462-A after Section -462.

K. TARA KAMA RAO,
Minister for Information Technology &
Municipal Administration and
Urban Development.

FINANCIAL MEMORANDUM

In the first instance the Municipal Building Tribunal will be constituted in Greater Municipal Corporation area only. The total Financial Implications (approximately) for constitution of Municipal Building Tribunal under GHMC Act, 1955 will be Rs. 416.04 Lakhs. The expenses of the Tribunal shall be paid out of the Greater Hyderabad Municipal Corporation, Hyderabad funds and no funds from the Government will be required for this purpose.

Finance Department have opined that they do not have any objection for amending the GHMC Act and for setting up the Municipal Building Tribunal as proposed.

K. TARA KAMA RAO,
Minister for Information Technology &
Municipal Administration and
Urban Development.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 1,2 and 4 of the Bill authorizes the Government to issue notification or make rules/ byelaws in respect of the matters specified therein and generally to carry out the purposes of the Act. Every rule so made are intended to cover matters mostly of procedural in nature. All rules so made shall be laid on the Table of the Legislature of the State and will be subject to any modifications made by the Legislature.

The above provisions of the Bill regarding delegated legislation are thus of normal type and are mainly intended to cover matters of procedure.

K. TARA KAMA RAO,
Minister for Information Technology &
Municipal Administration and
Urban Development.

**MEMORANDUM UNDER RULE-95 OF THE RULES OF
PROCEDURE AND THE CONDUCT OF BUSINESS IN THE
TELANGANA LEGISLATIVE ASSEMBLY**

The Greater Hyderabad Municipal Corporation (Second Amendment) Bill, 2016, after it is passed by both the Houses of the Legislature of the State may be submitted to the Governor for his assent under Article 200 of the Constitution of India.

K. TARA KAMA RAO,
Minister for Information Technology &
Municipal Administration and
Urban Development.

Dr. S. RAJA SADARAM,
Secretary to State Legislature.