

  
वास्तुकला परिषद्  
Council of Architecture

वास्तुविद् अधिनियम, 1972 के अंतर्गत भारत सरकार का एक स्वायत्त सांविधिक निकाय  
(An Autonomous Statutory Body of Govt. of India, under the Architects Act, 1972)

Ref. No. CA/15/2020/AE  
October 22, 2020

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**Subject: Licensing of Architects under Asansol Municipal Corporation Act, 1990-in violation of the Architects Act, 1972.**

Sir,

The Parliament of India enacted the Architects Act, 1972 with the consent of all State Governments, to provide for registration of architects on all over India basis and to regulate the standards of the Architectural Education and Professional Conduct of Architects.

The Act was enacted by the Parliament with the objective that since independence and more particularly with the implementation of the Five-year Plan, the building construction activity in our country is expanded on a phenomenal scale. A large variety of buildings, many of extreme magnitude like multi stores, factory buildings and residential houses is being constructed each year. With this increase the building activity many unqualified persons calling themselves as Architects are undertaking the construction of building which are uneconomically and quite frequently unsafe, thus bringing into disrepute to the profession of Architects. With the passing of this legislation, it will be illegal for any person to designate themselves as Architect unless he has required qualification is registered under Architects Act, 1972.

The attention of the Council of Architecture is drawn that Asansol Municipal Corporation is insisting Architect registered with the Council of Architecture to obtain license by paying fees for carry on the profession of architects under its jurisdiction. Similar representation has been received about Kolkata Municipal Corporation, WSIDC, WBIC, WIIDC and other local authorities granting license to Architects under their respective Acts.

Pertinent to the matter, I would like to state that Architects Act, 1972 is special Act dealing with registration of Architects all over India and is applicable throughout the territory of India. The relevant provisions of the Act are as under:

- (i) Section 2(a) : "Architect" means a person registered under the Architect Act, 1972.  
(ii) Section 35(1) : Any reference in any law for the time being in force to an Architect shall be deemed to be reference to an Architect registered under the Architects Act, 1972.



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Section 35(2) : A person who is registered in the register shall get preference appointment as an architect under the Central or State Government or in any other local body or institution which is supported or aided from the public or local funds or in any institution recognized by the Central or State Government from the public or local funds or in any institution recognized by the Central or State Government.

The Architects registered with the Council of Architecture are entitled to carry on the profession of architecture throughout the territory of India. After coming into force of the Architects Act 1972, and no local body/authority is competent to register/license any person as an "Architect" to carry on the profession of architecture.

It is respectfully submitted that under the provision of the Architects Act, 1972, which is a Central Law, relatable to entry 66 of List 1 (Union List) of the 7<sup>th</sup> Schedule of Constitution of India, Entry 26 of List 3, Concurrent List and Article 19(6)(1) of the Constitution of India, it is only Council of Architecture which can grant registration to a person to work as an Architect throughout the territory of India. The field of Architectural education and profession having been occupied by the Architects Act, 1972 (A Central Law), the State Government cannot make any law on the same.

Further, in view of the provision of Article 254 of the Constitution of India a Central Law shall prevail over the State Law. Hence, the State Laws (rules/Bye-Laws) made by the State Government laying down the requirement for registration of Architects and payment of fees are directly in conflict with the provisions of Architects Act, 1972 and shall be void to that extend.

**The Hon'ble Kolkata High court in W.P. No. 1712 of 1985 held as under:**

*In that view of the matter it is declared that the provisions of Calcutta Municipal Corporation Act will not in any way affect the rights of the architects registered under the Architects Act 1972 to practice the profession of architects without any further restriction and the writ petitioners shall be free to act as architects without any fetter and without any further license and without payment of any license fee or amount of security. This however is restricted to the persons registered under the Architects Act and not to have general application.*

The Hon'ble High court further held as under:

*The other issue is in regard to the restriction as regards to the architects' status and functions under Bidhan Nagar Building Rules. It has been contended by Mr. Dutt that the preparation and maintenance of a panel of architects means a restriction on the architects and as such is violative of Architects Act, 1972. Mr. Dutt contended that no rules can be framed so as to defeat the purpose of a Central Legislation. In my view, there is substantial force in Mr. Dutta's submission.*

*In the event, a panel is prepared by the concerned authority, there is an innate restriction for some other who are not empaneled. Can it thus be said that it is in consonance with the provisions of the Architects Act? In my view the answer is in the negative. Preparation of panel means restriction on some others and there cannot be any manner or doubt in regard there to. In the view expressed above while dealing with the main brunt of the submissions of the parties, I am of the view that such a panel cannot be maintained or prepared. Anybody having qualification of an*