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CA
वास्तुकला परिषद्
Council of Architecture

वास्तुविद् अधिनियम, 1972 के अंतर्गत शासन समझौते का एक स्वायत्त प्राविधिक निकाय
(An Autonomous Statutory Body of Govt. of India under (The Architects Act, 1972)

Ref. no. CA/80/2023/AOA | 22596 | 22594
July, 11 2023

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Subject:- Appointment of Architects for carrying out Architectural projects in terms of provisions of Section 35,36,37 of the Architects Act,1972-reg.

Dear Sir(s)

The Council of Architecture is a statutory Authority established under the Architects Act, 1972 to regulate standards of Architectural education, profession and to ensure that the title & style of Architect is not misused by unregistered persons.

The Parliament of India enacted the Architects Act, 1972 with the object that Architects registered with Council of Architecture are engaged for designing and planning of buildings and unqualified persons do not work as Architect and bring disrepute to the profession of Architecture.

It has brought to the notice of Council of architecture that the local bodies/Government Authorities in District Nanded are engaging non-architects to provide Architecture services.

Pertinent, to the matter, I would like to state that the Architecture is a distinct separate discipline from Engineering. Further, an Architect shall get preference in appointment by Government departments/Institution funded by Central/State Government, as per the Section 35 (2) of the Architects Act, 1972. The relevant section reads as under:

"After the expiry of two years from the date appointed under sub-section (2) of section 24, a person who is registered in the register shall get preference for 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."

The Hon'ble Gujarat High Court in Special Civil application No. 1927 of 2000 of Girish Mistry, Chairman IIA V/s State of Gujarat at para 29 discussed the role of Architects and Engineers as under:



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"Architects considering the requirements of the time and need of people have to plan from townships to cities or big complexed such as commercial and residential. They have to bear in mind different requirement of the people in a country. Architects are also required to keep in mind the most important aspect which is known as "cost factor". So far as the Civil Engineers are concerned originally, they are engaged in designing and constructing major structures and facilities bridges, dams, tunnels, tall buildings, factories, highway, airports, railroads and so on. There is a significant contribution by this branch also and has glorified by creation of sanitor system to reduce disease and improve environment. Transportation is one branch and it has division such as highway, bridge and traffic engineering. Another branch known as structural engineering has to concentrate on the design of bridges and large buildings. Structural engineer may cooperate with an Architect, who concentrates on the aesthetic and functional aspects of design while the engineer is concerned with materials, methods of construction and other technical requirements. Th present day sanitary engineer is concerned with water supply and sewerage systems for collecting and processing human wastes. Some Civil engineer manage the construction of other engineers' designs, concerning themselves with the Scheduling and coordinating phases of construction and inspection to assure adherence to specifications. Considering various aspects, it is clear that the function Architects and Civil Engineer cannot be same. Some extent, the work might be appearing to be overlapping. The Engineer may carry out the work of erecting a building as per design prepared by the architect. Architect may require supervision of the work carried out by the Engineer. It may be that in some cases one may require assistance of architect and engineer to complete the work but at the same time it must not be forgotten that the legislature has taken note of the fact that architects are professionals and qualifications are enumerated in the Schedule to the Architects Act. So far as the Civil Engineers are concerned, nothing has been placed before us indicating that they are required to be enrolled with the statutory body recognized under the Act, empowering the statutory body to exercise powers over the members or take action, such as disciplinary action. An engineer cannot be equated with an Architect. The important aspect has been lost sight of by the Board while scrutinizing the application."

Further, Hon'ble Supreme Court of India in Civil Appeal No. 1725 of 1997 vide order dated 08.10.2003 discussed the role of an Architect as observe under:

73: "An Architect plays an important role in execution of a building contract."

74: "In Hudson's Building and Engineering Contracts at page 243, it is stated:

"An Architect is a person who professes skill in the art of designing buildings to meet his clients need, in the organization of the contractual arrangements for their construction, and in the supervision of work and contractual administration until final completion. So, a major part of an Architect's activities will be concerned with the preparation of contracts, the obtaining and recommending for acceptance of estimates from builders, the selection of specialist contractors, the inspection of work carried out, the solution of difficulties encountered during the course of erecting the building, condemning and dealing with defective work, the issue of

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certificates under the terms of the contract and advising or ruling on disputes between the owner and the contractor. Thus, it will be seen that although it is primary and vital function of the architect to create new ideas of amenity and design and to set down those ideas on a drawing-board, his duties extend far into other fields of technical knowledge and business management. On the other hand, while he will remain primarily responsible to the owner for all matters of design, modern techniques of construction and specialized building products and processes in fact demand expertise and skill for which he will inevitably not always be personally qualified. The employment of outside consultants or the less satisfactory (from the legal point of view if the employer's interest is to be properly protected) device of delegating important design functions to specialist and sub-contractors and suppliers, and therefore a frequent and inevitable accompaniment of major building projects but, as will be seen, the architect is the "captain of the ship" and will be the person to whom the owner will normally look if a design failure occurs, though in some, but not all, cases he will adequately discharge his own overall responsibility if he exercise due professional care in referring matters outside his own expertise to a consultant or specialist supplier or contractor, particularly if these latter are engaged on behalf of the owner and not by the architect himself."

75: "An Architect has thus, various roles to play including independently ruling on disputes between the owner and the contractor.

76: In R.V. Architects Registration Tribunal, ex. P. Jagger [1945] 2 All ER 131, it is stated:

"An architect is one who possesses, with due regard to aesthetic as well as practical consideration, adequate skill and knowledge to enable him(i) to originate, (ii) to design and plan(iv) to arrange for and supervise the erection of such buildings or other works calling for skill in design and planning as he might in the course of his business reasonably be asked to carry out or in respect of which he offers his services as a specialist."

77: "An Architect has a great role in making an estimate. He is expected to neither under-estimate nor can over-estimate value of the works. He is bound by his conduct to the owner. He can be sued for his negligence. For his misconduct, fees payable to him may be forfeited. He may incur other liabilities not only under the contract but also under statute.

Further, I would like to invite your kind attention towards the Government of Maharashtra G.O. dated 11.09.2021 regarding appointment of Architects.

The Council has prescribed a code on Architectural Practice named as "**Manual of Architectural Practice**". The Manual of Architectural Practice (MAP) is a five-volume publication. The details of each Volume are as under:

- 1) **Volume ONE:** Guidelines for Architectural Practice sets the base for all further discussions. It outlines how the profession emerged, how the practice of architecture was set up and regularised, who architects are, what all do they do, and how and what services they provide. The Architects Act 1972 and the Code of Professional Conduct have also been recorded in the document.

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- 2) The various ways in which a potential Client could discover, define, gauge, compare, and finally select the most appropriate Architect that fits the requirements of their specific project is discussed in detail in **Volume TWO: Guidelines for Engagement of Architects and Code for Competitions**. Ready templates and various formats are also provided for conducting different types of Competitions: Ideas, Open, Invited.
- 3) Having selected an Architect, **Volume THREE: Guidelines for Architectural Contracts** goes on to present definitions and descriptions of various Contracts for Professional Services that are required to be entered into by the architect with a client. The Volume presents Contracts for three scales and complexities of projects Concise, Standard and Comprehensive, covering the widest range of professional works being assigned. More such templates will be added over time for a range of typical projects & services that architects are required to provide.
- 4) With a Contract in hand, **Volume FOUR** presents thorough & detailed processes and methods for deriving and calculating the value of the architect's Professional Consultancy Services, as Guidelines for Architectural Services and Fees. Simple, clear and easy-to-use formats are also provided for Fees to be calculated through four different methods: Lumpsum, Percentage, Unit Area and Man-hours. The CoA has also prescribed the Fee Band for various services.
- 5) **Volume FIVE** is a general advisory to all Architects on the wide and varied aspects of setting up and Guidelines for the Management of Firms. It also covers the Practicing Architect's responsibility and commitment to Internships - which form an integral part of the CoA's endeavor to link architectural students with the realities of actual professional practice.

Each Volume presents both detailed explanatory discussions on a particular aspect of Architectural Practice, as well as provides quick-reference Templates and Exhibits for the actual use of each reader and a wide range of references to data and websites for Specifications, Codes, allied associated disciplines and services, etc. A complimentary copy of Manual is enclosed herewith for your kind perusal.

In view of the above you are requested to kindly issue appropriate direction to the concern officer/Authorities to appoint only Architect for availing Architecture services so that the public building is constructed with the Professional Inputs of an Architect.

A line of reply will be highly appreciated.

Thanking you,

Yours faithfully,

R. K. Oberoi
Registrar



Encl: as above.