


वास्तुकला परिषद्
Council of Architecture

वास्तुविद 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/28/2015/AE

December 23, 2015

Shri Divakar Garg
Director General (Works)
Directorate General (Works Unit)
CPWD, MOUD, Govt. of India
Nirman Bhawan
New Delhi – 110 011

Subject : Office Memorandum/ Circular NO.DG/P&WA/79 dated 16/12/2015 advising Officers of CPWD not to use conditions of engagement and scale of charges for granting work to consultant architects or for justification of quotations – reg.

Dear Sir,

I am directed to state that it has come to the notice of the Council that the CPWD with your approval has issued the above referred Office Memorandum/ Circular NO.DG/P&WA/79 dated 16/12/2015, stating that the Conditions of Engagement and Scale of Charges prescribed by the Council of Architecture are neither approved by the Parliament under the Architects Act, 1972 nor by the Central Government and therefore advising all SDGs/ ADGs, CPWD and also Engineer-in-Chief of PWD, Govt. of NCT of Delhi not to use conditions of engagement and scale of charges for granting work to consultant architects or for justification of quotations.

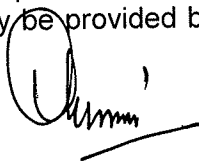
In this regard, at the outset it is pointed that the above stated Office Memorandum / Circular dated 16/12/2015, signed by Shri V.K. Jayaswal, DDG (Works), on 15.12.2015, is in contradiction with the Sections 22, 30 and 45 of the Architects Act, 1972.

Section 22 (1) of the Act empowers the Council to prescribe by Regulations standards of professional conduct and etiquette and a code of ethics for architects.

Section 22 (2) of the Act empowers the Council to lay down in the Regulations violation which may result in infamous conduct/ professional misconduct and such Regulations shall have overriding effect over any other law for the time being in force.

Section 30 of the Act empowers the Council to pass orders against architects after conducting inquiry.

Section 45 of the Act empowers the Council to lay down regulations for the standards of professional conduct and etiquette and code of ethics to be observed by architects and any other matter which is to be or may be provided by regulations under this Act and in respect of which no rules have been made.



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Pursuant to the above provisions of the Architects Act, 1972, the Council of Architecture prescribed Architects (Professional Conduct) Regulations, 1989, with the prior approval of Central Government and the same were placed before the both the Houses of Parliament.

Further, your attention is invited towards following provisions of the Architects (Professional Conduct) Regulations, 1989 :

2 (1) (iv) : an Architect shall, if in private practice, inform his client of the conditions of engagement and scale of charges and agree that these conditions shall be basis of the appointment;

2 (1) (xi) : an architect shall compete fairly with other Architects;

2 (1) (xii) : an architect shall observe and uphold the conditions of engagement and scale of charges;

2 (xiv) : an architect shall not prepare designs in competition with other Architects for a Client without payment or for a reduced fee (except in a competition conducted in accordance with the Architectural Competition Guidelines approved by the Council);

Your attention is also invited Regulation 2 (3) which states that Violation of any of the provisions of sub-regulation (1) shall constitute a professional misconduct.

Thus, the Council has laid down complete code and procedure for appointment/ selection of architects in fair, transparent and reasonable manner. In fact these are prescribed in Public interest to avail of the full complement of the services required of an architect and duly detailing their professional duties and responsibilities while providing their services to clients.

The Circular/ Office Memorandum issued by the CPWD cannot override the statute and cannot carve out an exception for any class of Architects.

The statement made para 2 of the Circular that the scale of charges prescribed by the Council of Architecture is neither approved by Parliament under the Architects Act, 1972 nor by the Central Government separately, is therefore, factually and legally incorrect since by virtue Regulation 2 (1) (iv) and (xii) these have been approved by the Central Government and also by the Parliament, as these Regulations were placed before both House of Parliament while bringing into effect Architects (Professional conduct) Regulations, 1989 and amendments thereon. The Conditions of Engagement and scale of charges therefore stand included as part of the law by incorporation.

It is also noticed that the CPWD has never consulted the Council before drawing this unilateral conclusion. The practice of architecture in India is regulated by Statute just like Medicine and Law. The Special law dealing with the practice of profession of architect having been enacted by the Parliament cannot be contradicted out or excluded by any departmental communication or executive instruction.

Your circular has grossly exposed architects to the Disciplinary proceedings in case of any complaint by any aggrieved party against the architects and architects would be misled by rendering services under the cover of your Circular referred to above. This would seriously undermine the professional rights of such Architects.

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Therefore, the sudden decision of the CPWD to not to follow the conditions of engagement and scale of charges which are prescribed pursuant to Section 22 read with Regulation 2 (1) (iv), (xi) and (xii) of the Architects (Professional Conduct) Regulations, 1989 is not proper and undermines the statutory mandate and power vested with the Council to regulate profession of Architecture.

In view of the above, CPWD is called upon to withdraw its advisory to not to follow the conditions of engagement and scale of charges prescribed by the Council of Architecture immediately.

Yours faithfully,

R. K. Oberoi
Registrar

Copy for information and necessary action to:

Shri V.K. Jayaswal
DDG (Works)
Directorate General (Works Unit)
CPWD, MOUD, Govt. of India
Nirman Bhawan
New Delhi – 110 011

The Private Secretary to
Hon'ble Minister of Urban Development
Government of India
Nirman Bhawan
New Delhi – 110 011