

**Government of Rajasthan**  
**Town Planning Department**  
**Office of the Chief Town Planner, Rajasthan, Jaipur**

TPR: 9354:42/Project/Part-V | 8152

Date: 10 DEC 2020

Registrar,  
Council of Architecture,  
India Habitat Centre, core-64,  
1<sup>st</sup> Floor, Lodhi Road,  
New Delhi- 110003 India.  
Phone No.- 91-11-49412100

Subject: - Violation of the Architects Act, 1972 in the Model Rajasthan (Urban Area) Building Regulations, 2020-reg.

Ref: - In reference to your letter addressed to Hon'ble Governor and Hon'ble Chief Minister Government of Rajasthan vide letter no. CA/348/2020/AE (Rajasthan) dated 12-10-2020.

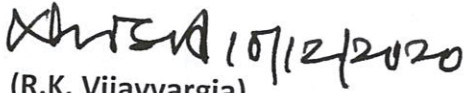
Sir,

In reference to your letter addressed to Hon'ble Governor and Hon'ble Chief Minister Government of Rajasthan dated 12-10-2020, I am pleased to inform you that as per Model Rajasthan (Urban Area) Building Byelaws-2020, Architects registered under Architects Act, 1972 by the CoA do not require a separate registration with any of the Local Bodies or any Urban Authority in Rajasthan to perform their profession/practice as mandate in Architect Act, 1972. However, in large public interest, Government of Rajasthan intention to utilize the advantage of qualifications and experience of the Architects, registered by CoA and are in the professional practice, by empowering them with power to grant building permission as a competent Authority as prescribed under the provision of Rajasthan Urban Area Building Byelaws-2020.

In this regard, the Architects will be authorized by the State Government for issuing Building Plan Approval/ Completion Certificate/ Occupancy Certificate as a Legal Authority provided under Building Byelaws.

It is therefore reiterated that the Government of Rajasthan has no intention of violating any of the Law prescribed under the Architects Act, 1972.

Your's Sincerely,

 10/12/2020

(R.K. Vijayvargia)  
Chief Town Planner,  
Rajasthan, Jaipur

TPR: 9354:42/Project/Part-V

Date:

Copy to: - PS to Principal Secretary, Urban Development and Housing Department, Rajasthan, Jaipur for kindly information.

Registrar  
148173  
5-1-2021  
A.O.  
(R.K. Vijayvargia)  
Chief Town Planner,  
Rajasthan, Jaipur.

  
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/348/2020/AE (Rajasthan)  
October 12, 2020

**Hon'ble Governor,**  
Government of Rajasthan  
Raj Bhaven Rd,  
Madrapur, Civil Lines  
Jaipur  
Rajasthan-302006

**Hon'ble Chief Minister**  
Government of Rajasthan  
Tilak Marg, Panch Batti  
C Scheme, Secretariat,  
Jaipur, Rajasthan-302005

**Subject: Violation of the Architects Act, 1972 in the Rajasthan (Urban Area) Building Regulations, 2020-reg.**

Respected Sir,

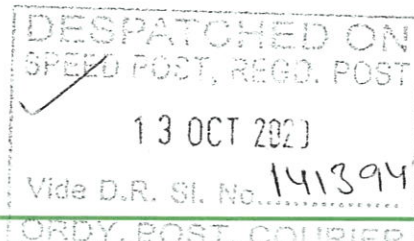
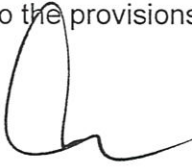
I am directed to state that the Council of Architecture is a statutory authority established under the Architects Act, 1972, to regulate the architectural education and profession in the country and to provide registration for Architect on all India level and to take action against Architects in the case of professional misconduct.

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 out country is expanded on a phenomenal scale. A large variety of buildings, many of extreme magnitude like multi stories, 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.

Sir, the attention of the Council of Architecture is drawn towards the proposed Rajasthan (Urban Area) Building Regulations, 2020, wherein the Government of Rajasthan has proposed to register Architects and other technical persons for carrying on the profession of Architecture in the State.

The Regulations also provide for qualifications and similar competence of Architects and other technical persons. The requirements for registration as a technical person are also contrary to the provisions of Architects Act, 1972.

The Registration process requires Architects to deposit Rs.10,000/- as one-time fee and Rs.2500 as registration fee from local architects and Rs. 50,000/- one-time fee and Rs.12500/- with Annual Renewal fee. Further, the Architect from outside the state are required to deposit Rs. 1,00,000 as one-time fee or Rs. 25,000 per year. Thus, the whole Regulations, 2020 are contrary to the provisions of the Architects Act, 1972.



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Pertinent to the matter, it is respectfully submitted that under the provisions 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)(i) 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 provisions 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 Council of Architecture had already vide its letter dated 06<sup>th</sup> February, 2020 (copy enclosed) brought the above issues to the notice of the State Government. However, the concerned authorities did not take into account the same while preparing Rajasthan (Urban) Area) Building Regulations.

In view of the above, it is most respectfully requested that appropriate directions be issued in the matter.

Thanking you,

Yours faithfully,



R.K. Oberoi  
Registrar



**Copy for information and necessary action to:**

1. The Chief Secretary  
Government of Rajasthan  
Tilak Marg, Panch Batti,  
C Scheme. Secretariat  
Jaipur, Rajasthan-302005
2. The ADG (HE)  
Department of Higher Education  
Ministry of Education  
Government of India  
Shastri Bhawan  
New Delhi-110001



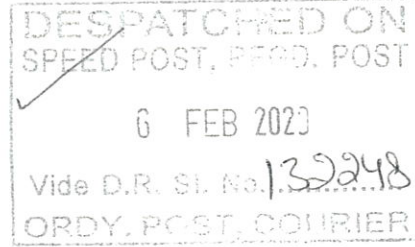
वास्तुकला परिषद्  
Council of Architecture

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/15/2020/AE

February 06, 2020

**The Chief Secretary**  
Government of Rajasthan  
Secretariat  
Jaipur – 302005



**Subject : Violation of the Architects Act, 1972 in Integrated Building Regulations, 2017 framed by Housing and Town Planning Department, Govt. of Rajasthan – reg.**

Sir,

The Council of Architecture is a statutory authority established under the Architects Act, 1972 enacted by the Indian Parliament and entrusted with the responsibility, inter alia, to regulate architectural education and profession in the country and register Architects on national level and also to take action against Architects in case professional misconduct.

Sir, the attention of the Council of Architecture is drawn towards the **Integrated Building Regulations, 2017 framed by Housing and Town Planning Department, Govt. of Rajasthan** and published in the gazette on 24.10.2017. A copy of the same is enclosed herewith for your ready reference.

Pertinent to the matter, may I invite your kind attention towards the Regulation 18 and 19 of the Integrated Building Regulations, 2017. Regulation 18 provides for taking action against Architects for professional misconduct including cancelling their registration on violation of professional code of conduct. *Similar provision exists in Section 22 read with Section 30 of the Architects Act, 1972. Thus, the provisions of the Regulations 18 are not consistent with the Sections 22 and 30 of the Architects Act.*

Further, Regulation 19 deals with registration of Technical persons of firms, companies or Associations, qualifications for registration as Technical persons, competence, process of registration and responsibilities of Technical persons. Though Architects registered with the Council of Architecture have been exempted from registration, however, the qualifications for Technical Persons as stated in Regulation 19.2 (i) and (ii) and (iv) to (viii) needs to be deleted. The Regulation also allows registration as technical person of associations of persons who are practicing through firms, companies or Committees.

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In the Regulation 19.3 the duties, functions and role of Architects as well as Engineers have been prescribed as one and the same which is violative of the provisions of the Architects act, 1972 and Regulations framed thereunder.

Role and functions of Architects and Engineers are different. Engineers/Diploma holders cannot be allowed to carry the practice of profession of an Architect i.e. preparing building plans/ layouts, supervision and issuance of completion certificate of buildings etc. Regulation 19.4 provides for registration and payment of fees for registration as Technical person.

The Division Bench of Hon'ble Gujarat High Court in Special Civil Application No.1111 of 1999 vide Order dated 20.06.2000 held as under:

29. xxxxxxx So far as the Civil Engineers are concerned, ordinarily they are engaged in designing and constructing major structures and facilities viz. bridges, dams, tunnels, tall buildings, factories, highways, airports, rail, roads, and so on. There is a significant contribution by this branch also and has glorified by creation of sanitary system to reduce disease and improve the environment. Xxxxxxx

*Xxxxxx "Considering various aspects it is clear that the function of Architects and Civil Engineer cannot be the same. To some extent, the work might be appearing to be overlapping. The Engineer may carry out the work of erecting a building as per the 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 to take action, such as disciplinary action. An engineer cannot be equated with an architect." Xxxxxx. A copy of the above order is enclosed herewith.*

Further, your attention is also invited to the judgement dated 14<sup>th</sup> February, 2017 in Civil Appeal Nos. 3346-3348 of 2005, of the Supreme Court of India, wherein the Hon'ble Supreme Court while disagreeing with order of Hon'ble Bombay High Court held as under:

*xxxxxxx we are of the view that the High Court was in error in rejecting the contention of the appellant that practice under the Architects Act, 1972 is not restricted only to the architects. It is not correct to say that anyone can practice as an architect even if he is not registered under the Architects Act, 1972 xxxxx.*

A copy of the above order is enclosed herewith for your kind attention and perusal.



As per Section 35(1) of the Act, any reference in any law for the time being in force to an Architect shall be deemed to be a reference to an Architect registered under the Architects Act, 1972. Section 35(2), provides that 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 from the public or local funds or in any institution recognized by the Central or State Government.

After coming into force of the Architects Act, 1972, no body / authority is entitled to register/ licence any person as an Architect in India. The Architects Act, 1972 being a Central Law prevails over all State Laws.

In view of the above, Government of Rajasthan is requested to appropriately amend the Integrated Building Regulations 2017 to make them consistent with the provisions of the Architects Act, 1972 and Rules and Regulations framed thereunder.

A line in reply of the action taken in the matter will be highly appreciated.

Thanking you,

Yours faithfully,



R.K.Oberoi  
Registrar

Encl : As above

