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GOVERNMENT OF KERALA

Abstract

Local Self Government Department – Aluva Municipality – Irregularities in granting building permit - Disciplinary action initiated against Sri. N.M.Nahas, Superintending Engineer and Sri. M.K.Devadas, former Public Works Overseer– Finalised - Orders Issued.

LOCAL SELF GOVERNMENT (EW)DEPARTMENT

G.O(Rt)No. 682 2017 LSGD

Dated, Thiruvananthapuram 13 03 2017.

- Read:-1. Letter No. C1.5408/11 dated 18.01.2012 from the Chief Town Planner, Thiruvananthapuram.
2. Govt. letter No.76957/EW1/13/LSGD dated. 17.01.2014.
 3. MOC & SOA No.76957/EW1 13 LSGD dated. 13.01.14 issued to Sri.N.M.Nahas, formerly Municipal Engineer and Sri.M.K.Devadas, formerly Public Works Overseer.
 4. Written Statement of Defence, dated. 26.02.2014 submitted by Sri. N.M. Nahas and Sri. M.K. Devadas.
 5. GO (Rt) No.1267 2017 LSGD dated 23.05.2014.
 6. Enquiry report dated 17.07.2014 submitted by Smt. T.M. Sudha, Chief Town Planner (Planning), Thiruvananthapuram.
 7. Show Cause Notice No.76957/EW1/13/LSGD dated. 12.08.14 issued to Sri.N.M. Nahas and Sri. M.K. Devadas.
 8. Reply dated. 27.10.2014 submitted by Sri. N.M.Nahas and Sri. M.K.Devadas.
 9. Order of Hon.KAT dated 09.10.15 in OA(EKM)918 2015 filed by Sri.N.M.Nahas
 10. Letter No. A1(1) 355 15 GW dated 29.07.2015 and 16.01.2017 from KPSC.
 11. GO (Rt) No. 2904/96/LAD dated 23.07.1996.
 12. GO (Rt) No.1752/97/LAD dated 24.05.1997.

ORDER

The Chief Town Planner, Thiruvananthapuram as per 1st paper read above reported certain irregularities in the construction of High-rise Residential Apartment building in Re-survey No. 46 12 of Aluva West village in Aluva Municipality. The unauthorized construction was commenced after the Kerala Municipal Building Rules came into force and was carried out before the 31st of December 2008.

Government have issued exemption for the construction of a G +4 building from rules 15 (3) (a), (b) & (c), 15 (5), 17 (2), 19, 21 (11) (a), 21 (12), 24, 25 (4) of Kerala Building Rules 1984 with certain conditions, vide GO read as 11th paper above. Later as per GO read as 12th paper read above Government have further permitted the construction of an eleven storied residential apartment building (GF+10) on the condition that the local authority should ensure that the road is widened to 5.5m before the project is completed.

However, Aluva Municipality have issued a building permit No. BA 112 95-96 dated 26-08-2006 for constructing a building of thirteen floors with G + 11 + Penthouse (108.38m²) + stair cabin + Machine room subject to the condition that the access road to the site should be widened to 5.5m at their own cost and risk, deviating from the exemption order read as 12th paper above and agreement dated 06-10-1997 executed by the application before the project is completed. It was not clear on what basis permission was granted for the construction of additional floors when the Government order read as 12th paper above permitted the construction of a G+ 10 storeyed building.

It was in utter disregard to GO read as 13th paper above that the Municipality issued permit to the High rise building. It is a clear case of irregularity, insubordination and dereliction of duty on the part of Sri. M.K. Devadas, the then Public Works Overseer and Sri. N.M. Nahas, the then Municipal Engineer, Aluva Municipality who recommended the building permit, side stepping the Government directions, which warrants disciplinary action. Accordingly MOC/SOA were served under Rule 15 of KCS (CC&A) Rules, 1960 against the delinquent officers for the above irregularities as per 3rd paper read above.

Sri. N.M.Nahas and Sri. M.K. Devadas have submitted their Written Statement of Defence as per 4th paper read above. As the delinquent officers had denied the charges levelled against them, Smt. T.M. Sudha, CTP was appointed to conduct a detailed inquiry into the matter as per orders read as 5th above. On inquiry the delinquent officers put forth more or less the same contentions as they made earlier and denied the charges. The inquiry officer as per formal enquiry report read as 6th paper above reported that the explanations of the delinquent officers were not acceptable as the construction of the Gf + 10 storied apartment only was exempted from some provisions of KMBR 84 by the Government. Any modification or addition can only be considered by Government or otherwise it shall satisfy the provisions of KMBR 1999 in force at the time of granting revised permit i.e., on 28-08-2006. As this is also not satisfied, especially the major rule regarding the access width (required 5.0m at the time of granting revised permit), it is concluded that the action taken by Sri. N.M.Nahas by issuing the revised permit for the addition of 11th floor, Pent House and Machine Room based on the NOC from Airport Authority of India can be considered as dereliction of duties. The inquiry officer concluded that granting of an additional floor, Pent House and Machine Room totalling an area of 729.35m² without observing the required formalities and not in conformity with the then rule in force at that time (KMBR 1999) can be treated as serious lapses from the side of Shri. N.M. Nahas and Shri. M.K. Devadas.

Government after considering the conclusions of the Inquiry Officer tentatively decided to bar two increments with cumulative effect from the salary of Sri. N.M. Nahas, Formerly Municipal Engineer (Now Superintending Engineer, South Circle, Thiruvananthapuram) and Sri. M.K. Devadas, Formerly Public Works Overseer, Aluva Municipality and Show Cause Notices on this account were served on them vide paper read as 7th above. In the reply submitted by the delinquent officers as per paper read as 8th above, they stuck to their earlier stand.

In the meantime Sri. N.M.Nahas filed OA(EKM)-918.2015 before the Hon. Kerala Administrative Tribunal and based on the orders of Hon'ble KAT dated 09.10.2015 Sri. N.M.Nahas and Sri. M.K.Devadas were heard by the Special Secretary, LSG Department on 26.02.2016. He raised the same contentions.

The remarks of Kerala Public Service Commission was sought in the matter and Kerala Public Service Commission advised the Government to award a major punishment of barring of two annual increments with cumulative effect in respect of Sri.N.M.Nahas and Sri. M.K. Devadas, as was tentatively decided and communicated to the delinquent officers.

Government have examined the matter in detail in the light of the Written Statement of Defence submitted by the alleged officers, the remarks of the formal enquiry report and the advice tendered by KPSC and found that the charges levelled against the officers are established without any doubt. In the circumstances the disciplinary action initiated against Sri.N.M.Nahas, Superintending Engineer and Sri. M.K.Devadas, former Public

Works Overseer is finalized by barring two annual increments with cumulative effect from the salary of the above officers and orders issued accordingly.

The orders of Hon. KAT read as 9th above is complied with accordingly.

By Order of the Governor.
A.SHAJAHAN IAS
Secretary to Government

To

Shri. N.M. Nahas. Superintending Engineer, (Through Chief Engineer, LSGD).
Thiruvananthapuram.
Sri. M.K.Devadas, formerly Public Works Overseer,
Aluva Municipality.
The Advocate General, Kerala, Ernakulam (with Covering letter).
The Chief Engineer, LSGD, Thiruvananthapuram.
The Accountant General(A&E), Kerala, Thiruvananthapuram.
The Principal Accountant General(Audit), Kerala, Thiruvananthapuram
/The Web & New Media, I & PRD.
The LSG (EW3) Department.
Stock file.Office Copy (No. 76957/EW1 13 LSGD)

Forwarded By Order



Section Officer.