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31/05/2022

GOVERNMENT OF KERALA

Abstract

Local Self Government Department- Directions & Timelines Issued for Variation / Revision of sanctioned Detailed Town Planning Schemes in compliance to the judgment in WP(c) No. 21634/2020.

LOCAL SELF GOVERNMENT (RD) DEPARTMENT

G.O.(Ms)No.109/2022/LSGD Dated,Thiruvananthapuram, 21-05-2022

- 1 Read I Judgement of Hon'ble High Court of Kerala on WP(c)No.21634 of 2020 dated 22/06/2021.
- 2 Affidavit filed by the Chief Town Planner dated 02-03-2022 on RP No.653 of 2021.
- 3 Order of Hon'ble High Court of Kerala on WP(C) No.21634 of 2020 dated 18-03-2022.

ORDER

The Government have sanctioned various Detailed Town Planning schemes under the erstwhile Acts which have been deemed to be sanctioned under section 113(2)(ii) of the Kerala Town and Country Planning Act, 2016 (KT&CP Act, 2016). As per section 61 of the Act, the provisions of the Detailed Town Planning Schemes (DTP Schemes) have to be enforced and all land developments have to be in conformity with the sanctioned DTP scheme provisions, wherever such schemes exist. Most of these Detailed Town Planning schemes stand un-reviewed since the sanctioning of the scheme and several litigations are being filed alleging that the schemes sanctioned are not being revised to accommodate the present developments and development trends in those areas.

The Honourable High Court of Kerala, while considering the writ petition, W.P.(C) No.21634 of 2020, made an observation that, large number of cases are coming up before the Hon'ble High Court alleging that, Town Planning Schemes sanctioned under the erstwhile town planning legislations and saved by the Kerala Town and Country Planning Act, 2016,

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have become obsolete. While disposing of the above writ petition, the Hon'ble High court have issued directions to the Government to initiate action under Sub-section (3) of Section 50 of Kerala Town and Country Planning Act, 2016 to revise the Detailed Town Planning schemes.

In the context of 73rd and 74th Constitutional Amendment Acts, the domain of spatial planning is designated as a function of the Local Self Government. The Kerala Town and Country Planning Act, 2016 further upholds the same spirit of decentralised planning and governance. In light of the decentralisation concept, the participation from the part of the Local Self Governments concerned in the scheme revision/variation is essential in order to fulfil their constitutional obligations and that variation of the Schemes under section 50(3) is to be invoked by Government only in such cases where the revision/variation is not originated by the Local Self Governments concerned. Hence, the Government is of the view that, the first right of variation/revision of Detailed Town Planning schemes shall remain vested with the Local Self Government.

Accordingly, a review petition and an affidavit was filed before the Hon'ble Court with plan of action for variation/revision of the Detailed town planning schemes, in a phased manner, as in reference read as (2) above. The Hon'ble Court vide order dated 18.03.2022, have permitted to implement the plan of action submitted in the review petition and have further directed to strictly adhere to the time limits prescribed and to file statements periodically indicating compliance of the Plan of action.

Hence, in compliance with the judgments of the Hon'ble Court, the following directions are issued to carry out the revision/variation of sanctioned Detailed Town Planning Schemes as an immediate and quick relief to public. The list of Local bodies having DTP Schemes to be varied is placed as Annexure .

1. The Municipal Corporation/ Municipal Council/Gramapanchayat

concerned, within a period of 2 months, shall take a resolution constituting a Special Committee, as per Section 32 of Kerala Town and Country Planning Act, 2016, to review the sanctioned DTP Schemes in conformity with rule 5(iv) of the Kerala Town and Country Planning (Preparation and Sanctioning of DTP Scheme) Rules 2021. A time line of 2 months shall be strictly adhered to, failing which, Government shall initiate the variation process of such DTP Schemes, as per section 50(3) of Kerala Town and Country Planning Act, 2016.

2. A time schedule for the preparation and statutory processing of individual DTP Schemes shall be prepared in a phased manner by the District Town Planner, concerned, in consultation with the Secretary of Municipal Corporation/ municipality/ Gramapanchayat, with due regard to the overall Action Plan submitted in the Hon'ble High Court. The milestones for such activities shall not exceed limits as detailed in items (3), (4) and (5) mentioned hereunder.
3. (a) The Special committee shall review the DTP scheme and submit a review report and draft variation of each DTP Scheme, for consideration of the Municipal Corporation/ Municipal Council/GramaPanchayat Committee, strictly adhering to the time schedule submitted in the Hon'ble High Court.
 - (b) In any case, if the Special committee fails to prepare the draft variation latest by the 22nd month, the Government will suo moto initiate and complete the variation process as per section 50(3) of Kerala Town and Country Planning Act, 2016.
4. (a) Municipal Corporation/Municipal Council/GramaPanchayat Committee shall resolve to approve the draft scheme/variation proposal and publish each DTP Scheme in its website, notice board,

(b) In any case, the Municipal Corporation/Municipal Council/Grama Panchayat Committee fails to do so latest by the 25th month, Government will *suo moto* complete the variation process as per section 50(3) of Kerala Town and Country Planning Act, 2016. In such cases, Government will publish the draft variation considering the draft prepared by the Special Committee and carryout further steps for sanctioning of the scheme as per section 50(3) of the Kerala Town and Country Planning Act, 2016.

5. (a) After publication of the draft Scheme, the Special committee shall process the Objections & Suggestions and the Municipal Corporation/ Municipal Council/ GramaPanchayat Committee, concerned shall forward the scheme, with or without modifications to Government, through Chief Town Planner, for sanctioning of the scheme, strictly adhering to the time schedule. The Scheme shall be forwarded to Government along with all relevant documents as stipulated in Rule 9 of the Kerala Town and Country Planning (Preparation and Sanctioning of DTP Scheme) Rules 2021.

(b) In any case, if the Special committee and the Municipal Corporation/ Municipal Council/ GramaPanchayat Committee fails to do so, latest by the 31st month, Government will further process the objections/ suggestions received and proceed with further processing of the prepared variation as per section 50(3) of Kerala Town and Country Planning Act, 2016.

6. Chief Town Planner, on receipt of the draft Detailed Town Planning Scheme, shall submit the scheme to Government, with his remarks regarding sanctioning of the DTP scheme and Government shall

sanction the scheme, accordingly. After sanction is accorded to the DTP Scheme, the notice regarding the sanction of the Scheme shall be published by the LSG as per rule 11 of the Kerala Town and Country Planning (Preparation and Sanctioning of DTP Scheme) Rules, 2021.

Further, the following directions are issued for facilitating the process and ensuring the progress of the work and monitoring of the same.

1. Immediately after the issue of this order, a sensitisation workshop/ training shall be conducted by Kerala Institute of Local Administration (KILA). LSGD (Planning) will give necessary technical support for the same.
2. The timelines stipulated in this order shall commence immediately from the date of completion of such sensitisation workshop.
3. Municipal Corporation/Municipal Council/Gramapanchayat concerned shall ensure the compliance of all the above process and strict adherence of the above timelines.
4. The Secretary of the Municipal Corporation/ Municipality/GramaPanchayat concerned shall submit the action taken & progress report on Review and Revision/Variation of DTP schemes to the District Town Planner by the 5th of every month.
5. The District Town Planner shall submit the action taken & progress report on Review and Revision/Variation of DTP scheme to the Chief Town Planner by the 10th of every month.
6. Since the Honourable High Court of Kerala has given directions to file the progress of works every three months without fail, the compliance of timelines prescribed and timely submission of progress reports shall be strictly adhered to by all concerned.

7. The Chief Town Planner, shall file the action taken report, every three months, before the Honourable High Court of Kerala.

(By order of the Governor)
RAJEEVAN A P
DEPUTY SECRETARY

To:

1. Director of Urban Affairs, Local Self Government Department.
2. Director of Panchayat, Local Self Government Department.
3. Chief Town Planner, LSGD (Planning)
4. Chief Town Planner (Planning), LSGD (Planning)
- ✓ 5. Chief Engineer, LSGD (LID & EW)
6. Director, Kerala Institute of Local Administration
7. All District Town Planners (Through Chief Town Planner)
8. All Concerned LSGs (Through District Town Planner concerned)

Forwarded /By order

Signed by Sindhu.p.g.

Date: 22-05-2022 19:24:16

Section Officer