



**MUNICIPAL CORPORATION OF DELHI**  
**OFFICE OF THE ADDITIONAL COMMISSIONER (ENGG)**  
**DR. SHYAMA PRASAD MUKHERJEE CIVIC CENTRE:**  
**JAWAHAR LAL NEHRU MARG**  
**NEW DELHI**

No. D/ 184 /Addl. Cm. (Engg)/Bldg HQ/MCD/2023

Date: 16/10/2023

**ORDER**  
**(Debarring of Architect)**

{Proceedings Under Bye-Law No. 2.9 - Penal Action - 2.9.3 of Unified Building Bye-Laws-2016 and Section 338 of the DMC Act-1957 for Revocation of Sanctioned Building Plans in respect of P.No. 2-B, Khasra No. 546/415, Village Masjid Moth, New Delhi}

Ref:

<b>Name of Applicant</b>	<b>Shri Vinod Kumar Bharel</b>
<b>Name of Architect</b>	<b>Shri Rakesh Kumar ( CA/1993/16126 )</b>
<b>Online ID No.</b>	<b>10095416 dated 22.12.2021</b>
<b>Area of Plot</b>	<b>382.60 sq.mts.</b>

Whereas the Architect named above exercised his powers as per Circular No. South DMC/Addl.Cmr. (RG)/2019/217 dated 15.10.2019 (to be read with subsequent Office Order No. D-078/COM/MCD/2022 dated 21.06.2022 and 304/COM/MCD/2022 dated 22.08.2022), which empowers the Architects / Engineers to sanction the building plans for fresh constructions of residential properties having area upto 500 sq.mts. (except the properties categorized in the said Circular) and sanctioned the building plans at his level. This Circular clearly stipulates that consequences / responsibility, if any, on account of erroneous sanction shall be exclusively borne by the Architect / Engineer. The aforesaid Circular / Office Order broadly also envisage as under:

- (a) *Through this module fresh building plans of the residential properties upto 500 sq.mt. (except the properties situated on Notified Commercial / MLU / PSS Roads and the areas in which NOC from any external Agency like DUAC, DMRC, AAI, ASI, Railway, HCC, Forest etc.) may be sanctioned by the Architect / Engineer in accordance with their qualification and competence specified in UBBL-2021 with the clear stipulation that consequences / responsibility, if any, on account of erroneous sanction shall be exclusory borne by Architect /Engineer;*
- (b) *It will be responsibility of the Architect / Engineer to ensure that the plot property concerned meets the requirements of Unified Building Bye-Laws-2016, Master Plan-2021, Zonal Development Plan, Layout Plan and the relevant Circulars issued from time to time before sanctioning of plans. It shall be ensured that there is no sub-division in the property in violation of the provisions of MPD-2021;*

*Besides, the Architect / Engineer shall also furnish online undertaking indemnifying that the Municipal Corporation (s) shall be kept harmless from any liability arising out from the sanction granted. Further, dispute, if any, arises in this behalf, it shall be solely defended by Architect / Engineer and liable for consequences / liability / responsibility arising out in any manner in this behalf;*

Whereas the sanction of building plans was released by the Architect at his level in favour of the applicant.

And Whereas the applicant submitted certain documents, duly signed by him and the Architect, such as Indemnity Bond, Affidavit, ownership documents etc.

And Whereas a complaint dated 18.05.2023 from Shri Kunal Bharal has been received, with various allegations regarding dispute in ownership of above property, co-ownership of property shared by Lt. Shri Budh Singh in Khasra No. 544/415, 545/415, 546/415 and khasra No. 89 of Village Masjid Moth, with allied issues and disputes relating to ownership of property.

Whereas it has been reported that the case is governed by the Notification dated 17.01.2011 / Master Plan-2021, to be read with relevant policy framed by the Town Planning Department.

Whereas the Architect, while sanctioning and releasing the building plans, has certified in the form of a Note, and affixed the stamp - Disclaimer - as under:

1. There is a Note affixed to the effect that **"This plan has been sanctioned by the Architect / regd. Engineer / regd. Supervisor online through the computerized system without any checking / scrutiny / vetting / intervention by the MCD. In case of any dispute / violation / legal matter whatsoever, the responsibility with regard to this sanction will be with owner / applicant / Architect / regd. Engineer / regd. Supervisor and in case of any dispute / violation, MCD shall be kept harmless in the matter and will be at liberty to revoke the sanctioned building plan, to forfeit the charges and to take the action for the erring professionals"**.
2. Disclaimer to the effect that **"In case any violation / mis-representation is noticed at any stage, the South Delhi Municipal Corporation (now known as Municipal Corporation of Delhi) will be on liberty to revoke the sanctioned building plan, forfeit the charges and take action against professionals. In such situation, the professionals would be responsible for the loss / damages of the owner and the South Delhi Municipal Corporation shall be kept harmless from any claim for loss / damage of any manner. The self-conformity test by the rule engine of the online portal will not exempt the professional from their responsibility"**.

Whereas based on the anomalies noticed in the case, a Show Cause Notice bearing No. D/125/Addl.Cm(Engg)/Bldg HQ/MCD/2023 dated 07.07.2023 under Section 338 of the DMC Act-1957 was issued / sent to the applicant as well as Architect of the case. The deficiencies and anomalies were duly incorporated in the said Show Cause Notice. In response, separate replies dated 18.07.2023 from the applicant **Shri Vinod Kumar Bharel and the Architect Shri Rakesh Kumar**, were received. The applicant and the Architect explained certain contentions and pleas taken by them in their respective replies, which are not being stated herein since the same have been explained the orders for revocation under Section 338 processed separately and simultaneously.

Whereas the matter has been got examined. The property is a part of urbanized village. However, the case has not been found eligible for sanction of building plans in the following manner:

1. There is a mandatory requirement of submission of NOC from N.M.A. The applicant has uploaded the NOC - ID No.10094113 issued by the National Monuments Authority (N.M.A.), with certain conditions. Such NOCs are mandated in respect of properties, which is situated in close proximity i.e. within the regulated / prohibited area of Ancient Monument, as per The Ancient Monuments and Archaeological Sites and Remains Act-1958 / Gazette Notification dated 16.06.1992, the area upto 100 mt. from the protected limits and further beyond upto 200 mts. near or adjoining protected

monument is prohibited and regulated areas respectively for the purpose of construction.

In the context of said NOC from N.M.A., it has been observed that as per Circular dated 15.10.2019, the powers for sanction of building plans of residential properties having area upto 500 sq.mts. have been delegated to the Architects / Professionals, but this Circular imposes certain exceptions, which clearly implies that the building plans of properties in the areas, for which NOC from any external Agency like DUAC, DMRC, AAI, ASI, Railway, HCC, Forest etc. is required, cannot be sanctioned by the Architect or any allied Professionals, and **SUCH CASES CAN BE SANCTIONED BY THE SANCTIONING AUTHORITY OF M.C.D. ONLY.** The Architect Shri Rakesh Kumar was required to ensure about his competency to sanction the building plans in the instant case, which he failed to do, and on the contrary, sanctioned the building plans thereby transgressing the delegated powers beyond the authority and scope of the Professionals.

The case overtly did not fall within the competency of the Architect for the purpose of sanction of building plans for the reasons that as per Circular No. South DMC/Addl.Cmr. (RG)/2019/217 dated 15.10.2019 (to be read with subsequent Office Order No. D-078/COM/MCD/2022 dated 21.06.2022), **the competency to consider and sanction such cases, requiring mandatory NOC from any external Agency / Department, lies with the Department only. The Architects are not empowered to sanction the building plans of such cases requiring NOC from any external Agency / Department. But the sanction accorded by the Architect is a transgression of scope and authority vested with the professional Architect in such a manner.**

2. The case is also not fulfilling the policy as per Notification dated 17.01.2011 to be read with the policy dated 18.01.2013 framed by the Town Planning Department.

As far as professional responsibilities and liabilities of the **Architect** are concerned, it has been observed that:

1. The **Architect** was required to ensure about competency for sanctioning of building plans, since the cases involving the issue of NOC from any external Department are beyond the authority and scope of defined powers.
2. The **Architect** was required to ensure at his level that the case qualifies for sanction of building plans in terms of status of colony, applicability of prevalent regulations notified in the Master Plan-2021, Unified Building Bye-Laws-2016 and DMC Act, 1957.
3. As an **Architect, before sanctioning of building plans**, he must be fully aware about past background of the case regarding eligibility of the case and well conversant with the mandatory provisions of the aforesaid Statutes.
4. The **Architect** needs to stay updated with regard to regulations and provisions of the Master Plan-2021, Unified Building Bye-Laws-2016, DMC Act, 1957, Zonal Plans and other allied prevalent regulations in terms of sanction of building plans, which are considered to be pivotal preliminary factors before practically preparing and designing the building.
5. Taking a common view, any sanction of building plans is not possible under the prevalent provisions until and unless it is specifically clear and ensured by the **Architect** whether the property under reference is eligible for sanction of building plans.

But the Architect failed to do so at the time of sanction of building plans at his level in the instant case.

Whereas it is evident that the case does not fall within the competency of the Architect since the Circular dated 15.10.2019 refrains the Professionals from sanctioning of building plans of those properties, wherein mandatory NOCs from the concerned Departments are required to be submitted. In the instant case, the NOC from NMA was required leading to the conclusion that the competency to sanction the building plans lies with the Department only, but on the contrary, the Architect sanctioned the case at his level in contravention of the prevalent policy. Thus, sanction of building plans was obtained by the applicant and accorded by the Architect by suppression, concealment and mis-representation of material facts. The sanction of building plans has been accorded by the Architect at his level and obtained by the applicant, without ensuring that the case qualifies for sanction of building plans in terms of prevalent policy. The onus for genuineness and correctness of the ownership and other allied documents / information etc submitted by the applicant at the time of sanction of building plans and ensuring that the case qualifies for sanction of building plans in terms of prevalent regulations notified in the Master Plan-2021, Unified Building Bye-Laws-2016 and DMC Act, 1957 jointly lies with the applicant as well as Architect only. The sanction of building plans has been procured by the applicant and granted by the Architect in grave violation of the provisions of Master Plan-2021, Unified Building-Laws-2016, DMC Act, 1957 and allied policy of the Department. The contentions of the applicant and Architect have not been found satisfactory.

And Whereas the aforesaid facts envisage that the Architect committed the lapses of gross professional mis-conduct on her part in the above manner.

Whereas according to the Provision No. 2.9 - Penal Action - 2.9.1- Revocation of Building Permit -it has been mandated as under:

**"The sanctioning authority shall revoke any building permit including sanction of building plan and / or occupancy-cum-completion certificate and take action as per law, if there has been any false statement or any mis-representation of material facts in the application on which the building permit was based."**

Whereas regarding taking action against the professionals, the bye-law No. 2.9 - Penal Action - 2.9.3 of Unified Building Bye-Laws-2016 - Action against the Owner / Professional- mandates that:-

- (a) If the sanctioning authority notices that any owner / professional(s) has made false statement(s) or concealed material facts and mis-represented for obtaining building permit in contravention of the extant laws / bye-laws/rules & regulations, the sanctioning authority shall:
  - i. De-list the professional(s) from all the sanctioning authorities in Delhi for a specified time period;
  - ii. The building permit shall be revoked;
  - iii. Details of the delisted professional(s) and the time frame for which they have been delisted shall be prominently displayed on the website of all the sanctioning authorities; and Action shall be taken against the owner / allottee / occupier by the sanctioning authority in accordance with the extant laws / bye-laws / rules & regulations.
- (b) In case of Architect(s), sanctioning authority shall inform the Council of Architecture (COA) regarding the act of the defaulting Architect(s) for taking suitable action for professional mis-conduct.

Based on the aforementioned facts, and in pursuance of provision of Unified Building Bye-Laws-2016, and for committing the violations of provisions of DMC Act, 1957, Master Plan-2021 as well as policy of the Department, **the Architect Shri Rakesh Kumar** is hereby debarred from signing / submission of building plan applications, application for regularization of properties, Completion Certificate applications as well as Layout Plan Applications with the Municipal Corporation of Delhi for a period of three years.

(Additional Commissioner (Engg))  
Municipal Corporation of Delhi

Shri Rakesh Kumar  
Architect  
(Licence No. CA/1993/16126)  
90/80 AB  
Malviya Nagar  
**NEW DELHI - 110 017**

Copy to:

1. Chief Town Planner-South DMC, North DMC and East DMC -to endorse a copy of the said Order to the Zonal Town Planning Departments.
2. Suptg. Engineer (Bldg)HQ-- to endorse a copy of the said Order to all Zonal Building Departments for taking further necessary action.
3. AO - IT Department - for necessary action regarding uploading the Order in the instant case on the website.

Additional Commissioner (Engg)  
Municipal Corporation of Delhi