

PUNJAB VIDHAN SABHA

Bill No. 13-PLA-2018

**THE PUNJAB LAWS (SPECIAL PROVISIONS FOR REGULARIZATION
OF UNAUTHORIZED COLONIES) BILL, 2018**

A

BILL

to make special provisions for better planning and regulating the development of unauthorized colonies, plots and buildings falling in unauthorized colonies, which are causing infrastructure and public safety issues in the State of Punjab and for the matters connected therewith or incidental thereto.

Whereas, in order to make provision for better planning and regulating the development and use of land in planning areas, for preparation of Regional Plans, Master Plans and implementation thereof and for undertaking urban development and housing programmes and schemes, the Punjab Regional and Town Planning and Development Act, 1995 (Punjab Act No. 11 of 1995) was enacted by the State of Punjab, which came into force on and with effect from the 1st July, 1995 ;

Whereas, in order to regulate the promotion of construction, sale, transfer and management of apartments on ownership basis and to regulate colonies and for matters connected therewith, the Punjab Apartment and Property Regulation Act, 1995 (Punjab Act No. 14 of 1995) was enacted, which came into force on and with effect from the 30th October, 1995 ;

Whereas, due to large scale migration of population from rural area to urban area, the population has increased many fold on urban settlement resulting in higher demand for housing and civic infrastructure and comparatively less number of promoters came forward to obtain colony licenses under the Punjab Apartment and Property Regulation Act, 1995 for development of planned colonies in the State. Resultantly, a large number of unauthorized colonies mushroomed in the State. However, in the absence of effective implementation of the said Acts, not much exercise could be undertaken to demolish the unauthorized colonies and also the buildings constructed on plots during all these years ;

Whereas, during all these years spanning over last about two decades, a large number of colonies have come up without approval of the competent

authority and a large number of residential or commercial buildings have been constructed in these colonies without approval and without proper facilities and it is not in the public interest to demolish such a huge number of unauthorized colonies or buildings uprooting the public at large ;

Whereas, the Government had constituted a committee of Experts to suggest a strategy to deal with this situation, which after assessing the ground realities has suggested not only the unauthorized colonies and buildings situated in such colonies should be regularized by framing a policy but basic amenities should also be provided in such colonies to give breathing space to the residents of these colonies.

Whereas, after considering the suggestions of experts, it has been considered necessary in the larger public interest to provide relief to the people of the State by regularizing unauthorized colonies or buildings within the policy framework to be specified by the Government.

Whereas, in order to bring all these unplanned areas into the fold of planned development and to ensure provision of basic amenities for better quality of life to the residents of these colonies, the Government of Punjab had earlier enacted the Punjab Laws (Special Provisions) Act, 2013, which had been further re-enacted in the year of 2014 and again in the year of 2016 for the framing of policies. Out of these three enactments, the first two remained operative for a period of one year each i.e. from the 17th April, 2013 to the 16th April, 2014 and the 6th February, 2015 to the 5th February, 2016, respectively. Whereas the third enactment remained operative for a period of six months i.e. from the 21st October, 2016 to the 20th April, 2017. However, some of the colonizers or plot holders of the unauthorized colonies could not apply for regularization under the previous policies and also some amendments are required to be made in the previous policy so that maximum number of unauthorized colonies could be covered under the new policy ;

And whereas, it is expedient to have a law to provide relief to the people of the State of Punjab residing in unauthorized colonies.

BE it enacted by the Legislature of the State of Punjab in the Sixty-ninth Year of the Republic of India, as follows :—

1. (1) This Act may be called the Punjab Laws (Special Provisions for Regularization of Unauthorized Colonies) Act, 2018.

Short title and commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

- (a) “appellate authority” means appellate authority appointed under section 10 ;
- (b) “Colony” means an area of land not less than one thousand square meters divided into plots for residential, commercial or industrial purpose ;
- (c) “Competent Authority” means any person or authority as specified in section 7 to exercise and perform all or any of the powers and functions of the Competent Authority under this Act ;
- (d) “Government” means the Government of the State of Punjab ;
- (e) “Master Plan” means master plan prepared and notified under the Punjab Regional and Town Planning and Development Act, 1955 ;
- (f) “Public Land” means land owned by the Central or the State Government, Board or Corporations constituted under any Central or State law or owned by the Central or State Government including the land owned by Gram Panchayat or Municipality ;
- (g) “punitive action” means action taken by the local authority or the competent authority under the relevant law against unauthorized development and shall include demolition, displacement of persons or their business establishment from their existing location, whether in pursuance of court orders or otherwise ;
- (h) “Residents Welfare Association (RWA)” means a society of the plot holders of an unauthorized colony or a co-operative society registered under the Societies Registration Act, 1860 ;
- (i) “section” means a section of this Act ; and

(j) "unauthorized colony" means a colony and includes a building or apartments constructed in such colony, which has been developed by promoter in contravention of the provisions of the Punjab Apartment and Property Regulation Act, 1995 (Punjab Act 14 of 1995).

(2) The definitions of the expressions 'apartment', 'authority', 'development charges', 'development works', 'external development works', 'internal development works', 'local authority', 'person', 'promoter' or any other word used in this Act, but not defined shall have the respective meanings as assigned to them in the Punjab Regional and Town Planning and Development Act, 1995 and the Punjab Apartment and Property Regulations Act, 1995.

Disposal of pending applications.

3. All pending applications received by the local authority or the competent authority under the Punjab Laws (Special Provisions) Act, 2013, the Punjab Laws (Special Provisions) Act, 2014, and the Punjab Laws (Special Provisions) Act, 2016, shall also be dealt with under this Act.

Regularization of unauthorized development.

4. Notwithstanding anything contained in any other State law for the time being in force and subject to payment of fee, development charges and fulfillment of terms and conditions, as may be determined in the policy to be framed by the Government under this Act, the development shall be deemed to be regularized under the provisions of the respective Act including where any action has been initiated for such violations.

Provisions of this Act not to apply in certain cases.

5. During the period of operation of this Act, no relief of regularization shall be available under the provisions of section 3 in respect of the following categories of unauthorized development, namely :—

- (a) any unauthorized construction or development raised or continued on or after the 19th day of March, 2018 ;
- (b) encroachment on public land ;
- (c) unauthorized development raised on area, which is notified under the Land Acquisition Act, 1894, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Forest (Conservation) Act, 1980, the Punjab Land Preservation Act, 1900, the Environment (Protection) Act, 1986 and the Works

of Defence Act, 1903 or an area covered under any other Central or State Act ;

- (d) Unauthorized development raised on land falling in restricted areas along Scheduled Roads and National Highways or any other restricted area declared under any other Central or State law ;
- (e) any other type of land or building as may be decided by the Government ; and
- (f) Unauthorized Marriage Palaces and the unauthorized stand alone buildings for which the Government has notified separate policies.

6. No person shall be entitled to claim any benefit or relief of regularization under this Act unless all the terms and conditions have been fulfilled and the requisite fee and charges as specified by the Government have been deposited. Entitlement of claim.

7. The Chief Administrator of concerned Special Development Authority in case of area falling outside municipal limits, the Commissioner, Municipal Corporation, in case of area falling within Municipal Corporation limits and the Regional Deputy Director, Local Government for the area falling within municipal limits of Municipal Council or Nagar Council or any other person or authority notified by the Government, shall be the competent authority to exercise and perform all or any of the powers and functions under this Act. Competent Authority.

8. (1) Any person intending to get unauthorized colony or building or apartment regularized under this Act, shall apply in writing or online to the competent authority for regularization in such form containing such particulars and accompanied by such documents and plans, as may be specified in the policy and by the competent authority. Powers and functions of the competent authority.

(2) On receiving application duly made under sub-section (1) and on payment of charges and fee specified in the policy relating to change of land use, regularization or development charges, license fee or permission fee, social infrastructure fund, compounding fee etc., the competent authority may pass an order,—

- (i) granting regularization unconditionally ; or
- (ii) granting regularization subject to such conditions as it may think necessary to impose; or

(iii) refusing regularization ; and

(iv) where regularization is granted subject to the conditions or is refused, such conditions or refusal shall be communicated to the applicant in writing.

Power to make policy.

9. The Government may, by notification in the Official Gazette frame and notify a policy for carrying out the purposes of this Act.

Appellate authority.

10. The Government may, by notification in the Official Gazette, appoint an officer or an authority as an appellate authority, to decide appeals against the orders of the competent authority :

Provided that the Government may appoint more than one officer or authority as appellate authority and distribute the work amongst them in the manner as it may deem fit.

Appeal against the orders of the competent authority.

11. (1) Any person aggrieved by any order of the competent authority under this Act, may within a period of thirty days from the communication of the order to him, prefer an appeal to an appellate authority in such form and manner, as may be notified.

(2) The appellate authority may, after giving an opportunity to be heard to the parties and to the competent authority, pass such order, as it may deem fit, either confirming, modifying or setting aside the order of the competent authority, and record its reasons in writing and the order of the appellate authority shall be final.

(3) In discharging its functions while deciding an appeal, the appellate authority shall have all the powers under the Code of Civil Procedure, 1908 of a civil court.

Power of Government to give directions.

12. The Government may, from time to time, issue such directions to the competent authority as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of the competent authority to comply with such directions.

Offences and penalties.

13. Any person or promoter or his agent who will develop unauthorized colony or building on or after the date as specified in section 5 (a) shall, on conviction, be punished with imprisonment for a minimum term of three years which may extend to seven years and with minimum fine of rupees two lac, which may extend to rupees five lac.

14. On or after the date as specified in section 5(a), if the competent authority has a reason to believe that any un-authorized colony or un-authorized building has been constructed, ~~then~~ it shall have the power to order to stop the construction or development of such un-authorized building or colony or to demolish or remove the same after giving a notice of thirty days and affording a reasonable opportunity of being heard to the person concerned.

Power of the competent authority.

15. No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any policy made thereunder.

Protection of action taken in good faith.

16. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter, the cognizance of which can be taken and disposed of by any authority empowered by this Act or the policy made thereunder.

Bar on jurisdiction of courts.

STATEMENT OF OBJECTS AND REASONS

Given the constraint of affordable housing, a large number of citizens in the State buy plots for residential accommodation in unplanned colonies, which do not provide for adequate basic amenities. The Government intends to improve the basic amenities in such colonies for better quality of life and safety of people, as a result, aims to enact a special legislation titled as "The Punjab Laws (Special Provisions for Regularization of Unauthorized Colonies) Bill 2018", allowing the developers of such colonies and the plot holders to get their colonies/plots regularized on payment of composition fee and other charges. The amount of fee and other charges collected from the developers and the plot holders of such colonies will be used to develop basic amenities for the residents of these colonies.

AMARINDER SINGH,
Chief Minister, Punjab.

FINANCIAL MEMORANDUM

With the introduction of The Punjab Laws (Special Provision for regularization of Un-authorized colony) Bill 2018, an opportunity to those colonizers/residents is given who have failed to apply for either getting their un-authorized colonies regularized or un-authorized plots/building falling in un-authorized colonies compounded under previous polices. It is proposed to enable residents living in these colonies to get facilities of basic amenities like water supply, sewerage, electricity and adequate roads etc.

The compounding of these unauthorized colonies will be finalized by charging compounding fee from developers/colonizer/RWA etc. The plot holder will be paying development charges and constructed building's owner will pay regularization charges.

These charges/fee will be deposited in the account of respective Development Authority or Urban Local Bodies and it will be utilized for developmental works in these areas only. In this way the problem of Un-authorized colonies will be dealt in proper way and some funds will be generated which will be spent on infrastructure development of these areas.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 9 of the Punjab Laws (Special Provisions for Regularization of Unauthorized Colonies) Bill, 2018 empowers to the State Government to make rules to carry out the purposes of this Act. The powers sought are necessary for the proper implementation of the provisions of the Act and are normal in nature.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction and consideration of the Bill

CHANDIGARH :

The 27th March, 2018.

SHASHI LAKHANPAL MISHRA,

Secretary.

N.B.—The above Bill was published in the *Punjab Government Gazette (Extraordinary)*, dated the 27th March, 2018 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).