

# **TOWN PLANNING AND DEVELOPMENT LAWS:EVOLUTION AND CURRENT AMENDMENTS**

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# BACKGROUND

- The history of contemporary planning practice in India dates back to the enactment of the Bombay Improvement Trust Act 1920.
- Subsequently, similar Acts were enacted in other Presidencies.
- The visit of Sir Patrick Geddes to India and his propagation of the work-home place theory laid the foundation for the setting up of Improvement Trusts and subsequently thinking process for enactment of Town and Country Planning Acts in various States and the establishment of State T&CP Departments.
- Following this, Urban Development Authorities were set up under Development Authority Acts for addressing the problems of fast growing towns and cities and formulating Master Plans which apart from having strong spatial connotations also have both social and economic aims.

# STATUTORY PROCESS FOR PLANNED DEVELOPMENT OF TOWNS AND CITIES

- Statutory process of master plan formulation in India was inspired by the erstwhile comprehensive planning system envisaged under the **Town and Country Planning Act, 1947** of United Kingdom.
- As most of the Town Improvement Trust Acts then in force in various states did not contain provisions for preparation of Master Plans, a need was felt to have a Comprehensive Town and Country Planning Act on the lines of U.K.
- Accordingly, Central Town and Country Planning Organization or TCPO drafted the **Model Town and Regional Planning and Development Law in 1962**, which formed the basis for various States to enact Town and Country Planning Acts, with modifications to suit local conditions.

# MODEL REGIONAL AND TOWN PLANNING AND DEVELOPMENT LAW, 1985

➤ This model Law was revised by TCPO in year 1985 as “Model Regional and Town Planning and Development Law” to enact a comprehensive urban and regional planning legislation in all the States and UT’s.

# BROAD PROVISIONS

- ❖ Constitution of State Regional and Town Planning Board by the State Government for the purpose of advising on the delineation of the region for the planned development,
- ❖ Directing the preparation of metropolitan, regional and area plans by the metropolitan, regional and area planning and development authorities.
- ❖ Setting up of metropolitan, regional and area planning and development authorities for different urban and rural areas within the State to undertake preparation of development plans and to
  - ✓ enforce and implement them,
  - ✓ Co-ordinating the planning and implementation of physical development programmes

# Model Law provided 3 steps for the administration of this law:

- a) Preparation of existing land use map,
- b) Preparation of an outline development plan and comprehensive development plan and their enforcement, and
- c) Preparation of detailed schemes of development or redevelopment as envisaged in the plans and their implementation.

# STATUS OF TOWN AND COUNTRY PLANNING ACTS AND MASTER PLANS

- Based on the Model Regional and Town Planning and Development Law, 1985, many states enacted their Town and Country Acts.
- However, states like Haryana, Rajasthan and UT of Chandigarh, Lakshadweep do not have Town and Country Planning Acts. Jharkhand, Chattisgarh and Uttarakhand have adopted the parent state's T&CP Acts
- Out of 7933 Towns, about 2032 towns have Master Plans (1483 notified + 549 under preparation)



# 74 TH CONSTITUTION AMENDMENT ACT AND ITS IMPLICATION ON THE STATUTORY PROCESS IN TOWN AND COUNTRY PLANNING

- First UDPFI Guidelines were prepared in 1996 in consonance with the provisions of 74<sup>th</sup> CAA .
- Part 2 contained suggested changes required in Model Regional and Town Planning and Development Law (Volume 2A) and modifications in Town Planning Acts of Maharashtra {Volume 2B) and Gujarat (Volume 2C).
- The objective of the Volume 2 A and B was to guide the State governments to incorporate the provision especially of preparation Metropolitan and District Plan .



- However, most of the State Governments did not incorporate the provisions in the Town and Country Planning Acts as suggested by UDPFI Guidelines, 1996.
- An attempt was made under the JNNURM wherein one of the reforms was to comply with 74<sup>th</sup> CAA with reference to constitution of both MPC and DPC.
- States have constituted MPC and DPC but without strong professional backup for preparing both metropolitan and district plans.



**COMPARISION  
BETWEEN  
BIHAR URBAN AND REGIONAL PLANNING AND  
DEVELOPMENT ACT,2011**

**KERALA TOWN AND COUNTRY PLANNING  
ORDINANCE ,2013**

# BIHAR URBAN AND REGIONAL PLANNING AND DEVELOPMENT ACT,2011/KERALA TOWN AND COUNTRY PLANNING ORDINANCE ,2013

BIHAR		KERALA
CHAPTER I	PRELIMINARY	PRELIMINARY
CHAPTER-II	BIHAR URBAN PLANNING AND DEVELOPMENT BOARD	STATE TOWN AND COUNTRY PLANNING COMMISSION AND THE PERSPECTIVE PLAN
CHAPTER-III	DECLARATION OF PLANNING AREAS AND CONSTITUTION OF PLANNING AUTHORITIES	DISTRICT PLANNING COMMITTEES AND PLANS FOR DISTRICTS
CHAPTER-IV	PREPARATION OF LAND USE MAP AND LAND USE REGISTER	METROPOLITAN PLANNING COMMITTEE AND PLANS FOR METROPOLITAN AREA
CHAPTER -V	PREPARATION, CONTENTS AND APPROVAL OF DEVELOPMENT PLAN	PLANS FOR LOCAL PLANNING AREAS
CHAPTER-VI	CONTROL OF DEVELOPMENT AND USE OF LAND	JOINT PLANNING COMMITTEE AND PLANS FOR JOINT PLANNING AREA
CHAPTER-VII	AREA DEVELOPMENT SCHEME	DETAILED TOWN PLANNING SCHEME
CHAPTER-VIII	LEVY, ASSESSMENT AND RECOVERY OF DEVELOPMENT CHARGE	REVIEW, REVISION, VARIATION AND REVOCATION OF PERSPECTIVE PLAN, MASTER PLAN AND DETAILED TOWN PLANNING SCHEME
CHAPTER-IX	ACQUISITION AND DISPOSAL OF LAND	DEVELOPMENT AUTHORITIES
CHAPTER-X	FINANCE, ACCOUNTS AND AUDIT	CONTROL OF USE AND DEVELOPMENT OF LAND
CHAPTER-XI	URBAN ARTS AND HERITAGE COMMISSION	IMPLEMENTATION OF PLANS
CHAPTER-XII	TRIBUNAL	THE KERALA URBAN ART COMMISSION
CHAPTER-	POWERS OF GOVERNMENT	FINANCE, ACCOUNTS AND AUDITFINANCE, ACCOUNTS

➤ Other States need to follow both the States in amending the Town and Country Planning Acts.

- Rather ,the Acts needs reforms in view of compliance to 74<sup>th</sup> CAA and host of emerging issues which calls for
- ✓ Expeditious completion of Master Plan process
  - ✓ Need based and speedy change of Land use
  - ✓ Reengineering the overall regulatory framework.
  - ✓ Provision for notifying the sectoral plans.
  - ✓ Urban Policies at the State level
  - ✓ Constitution of State Regulatory body

# REVISION OF URDPFI GUIDELINES

- Since 1996, many changes have taken place in the field of urban development especially in view of emerging needs / requirements of urban settlements due to rapid population growth and other reasons like globalization and liberalization.
- Towns and cities are dynamic entities and are subject to unprecedented changes in terms of requirements of infrastructure and other basic services / amenities. Accordingly, norms and standards prescribed by previous guidelines need to be revisited.
- New Guidelines are the **Urban and Regional Development Plan Formulation and Implementation Guidelines (URDPFI)**.
- The draft Guidelines have been uploaded on MoUD website(<http://moud.gov.in/URDPFI>).
- Final Guidelines will be released shortly.

# EMERGING ISSUES

- Inclusive Planning
- Sustainable Habitat Parameters
- Integration of Landuse and transport at planning stage
- Norms and Standards/Zoning Regulations
- Urban Reforms
- Service Level Benchmarks
- Plans like
  - *City Sanitation Plan*
  - *City Drainage Plan*
  - *Capital Investment Plan and Financial Operating Plan*
  - *Disaster Management Plan*
  - *Comprehensive Mobility Plan*

# MODEL REGIONAL AND TOWN PLANNING AND DEVELOPMENT LAW-SUGGESTIONS IN DRAFT URDPFI GUIDELINES FOR MODIFICATIONS

- Replacing old Land Acquisition Act with the new Act.(LARR,2013)-Implications
- Mandatory Implementation of 74th CAA
- Inter-State Planning
- Joint Area Committee
- Innovative Systems of Land Assembly

## ***Town Planning Scheme***

## ***Land Pooling and Development Schemes***

## ***Transferable Development Rights***

## ***Accommodation Reservation***

- Encouraging Private and Joint Sector Participation
- Time Line
- State Regulatory Body
- City Infrastructure Fund



# LITIGATIONS WITH RESPECT TO PLANNING -EXPERIENCES OF TCPO

In the Hon'ble High Court of Punjab and Haryana and Punjab –a number of public interest litigations have been filed for the following reasons:

- Uncontrolled development in Periphery of Chandigarh.
- No efforts made for preparing Inter-State Regional Plan.
- Draft Master Plan for Chandigarh-2031 not being notified .

# CIVIL WRIT PETITION ON CHANDIGARH

S.No.	CWP No.	Subjet	Hon <sup>ble</sup> Court /Directions	Comments sent to Ministry	Remarks
1.	No.7291/ 2000	Jasbir Singh Dhalwal & Others Vs Union of India	High Court of Punjab & Haryana	Sent on 18.10.2000 & 24.10.2000	F.No. Vol.VIII Page No. 260
2.	No. 876 /2001	Dr. B. Singh Vs Union of India	-do-	Sent on 16-03-2001	Vol. VIII Page. No. 400
3.	Appeal No. 5721-5725/2001	Sanjeet Singh Grewal & Others Vs Union of India	-do-		Vol. VIII Page. 406
4.	No.7291,8708,9047,9143 & 16738/2000 Special Leave Petition(Civil)	-do-	Supreme Court	Sent on 16.9.2001	Vol. VIII page No. 464
5.	No.7291/2000	Late S. Beant Singh	Punjab & Haryana		Vol. VIII Page No. 466
6.	No.9143/2000	State of Punjab & others	Punjab & Haryana		Candigarh Master Plan
7.	NO. 11039/2001	New Town Planning & Development Authority for Anandgarh Vs Sanjeet Grewal & others	Punjab & Haryana	Sent on 14.3.2002	Vol. VIII Page No. 526
8.	No.18597/2001	Dr. B. Singh Vs Union of India	High Court Punjab & Haryana	22.5.2002	Punjab New Capital (Periphery) control Act, 1962 Vol. VIII Page No. 609
9.	No.492/2003	Dr. B. Singh Vs Union of India	Supreme Court	10.12.2003	Vo. IX page No. 11
10.	No. 8327/2004	Dr. B. Singh Vs Union of India	Punjab & Haryana Court	25.06.2004	Vo. IX Page No. 94
11.	No. 7649/2003, 876/2001, 16325/2001	Dr. B. Singh Vs Union of India	Punjab & Haryana Court	18.1.2004, 7.06.2005	Vo. IX Page No. 201 & 285
12.	No. 242/2005	Jaswant Singh & Others Vs Union of India	Punjab & Haryana Court		Vo. IX Page. Nop. 229
13.	No. 9556/2005.	Dr. B. Singh Vs Union of India	Supreme Court	28.6.2005	Vo. IX Page No. 293
14.	No. 16022/2004	Rajesh Jakhraan & Others Vs Union of India			Haryana Development & Regulation of Urban Areas Act 1975 Vol. IX Page No. 311
15.	No. 942/2005	Jaswant Singh & Others Vs Union of India	High Court of Punjab & Haryana		Vol. IX
Please Note Details of Court Cases in Chronicle Order given in Page 304-305 Vol. IX					
16.	No.9157/2002	aurav & Others Vs. Union of India	High Court of Punjab & Haryana	Sent	Vol. IX Page No. 373
17.	No. 12218/2006, 4034/2005, 5907/2006,8138/2006,6398/2006,9423/2005,2424/2005,8354/2006		High Court of Punjab & Haryana		Vo. IX Page No. 393
18.	Please see Page No. 396 about 11 cases				
19.	No.4252/2008	Gurbax Singh Shergill Vs Union of India	High court of Punjab & Haryana	Sent on 10.6.2008	Vol. IX Page No. 415
20.	<b>Civil Writ Petition No.4252 of 2008</b>	<b>in the High Court of Punjab and Haryana</b>		2014	

# IMPLICATIONS

- Judicial Intervention, Hon'ble Court directed the Chandigarh UT Administration to finalize the Master Plan for Chandigarh.
- Hon'ble Court also directed Coordination Committee under the chairmanship of Secretary (UD) to convene meetings regularly. In last 2 years, about 6 meetings were held ,the last being on 19.9.2014.
- However, the issue pertaining to the preparation of Inter-State Regional Plan for Chandigarh has not been settled as the present statute for Chandigarh UT does not provide for preparation of Inter-State Regional Plan, hence the stalemate.

# LESSONS

- Barring NCR Plan, no inter state regional plans have been prepared with statutory backing.
- Efforts were made for preparing the Inter-state Regional Plan for Puducherry, but no action has been taken as both Tamil Nadu T&CP and Puducherry T&CP Acts do not have the provision for the same.
- It is felt that the Inter state Regional Plans may not become a reality until Central Government involves itself in coordination among the States.

## OTHER WRIT PETITIONS RECEIVED IN TCPO

- **Writ Petition No. 25720 of 2007- High Court of Madras- Shri. B. Sraravana Sathish Kumar Vs UOI (M/o Law/ Urban Development) regarding incorporating provisions of 73rd and 74<sup>th</sup> Constitution Amendment Act in Tamil Nadu Act 35 of 1972 Viz. Tamil Nadu Town and Country Planning Act, 1971.**
- **Writ Petition (Civil) No. 7861 of 2010 titled Campaign for People Participation in Development Planning vs. Union of India and Writ Petition (Civil No. 7862 of 2010 titled HR Suri vs. Union of India.(Regarding to take all necessary steps to enable and capacitate the MCD to function in fulfillment of the Constitution amendment to regulate landuse and construction of buildings in Delhi.**
- **Special Leave Petition (Civil) No.27596/2012 Jumsheed Kanga – vs- State of Maharashtra and others (Regarding Public space demarcated in the Development Plan for a recreational ground but converted into club house(Mumbai case).**

➤ **Writ Petition (PIL) No. 75 of 2014 – Vadodara Shaheer Jilla Khedut Mandal Vs. State of Gujarat, High Court of Gujarat, Ahmedabad regarding (constitution of District Planning Committee and Metropolitan Planning Committee in compliance to 74th Constitution Amendment Act)**

➤ **Application No. 165 of 2013 before the National Green Tribunal, New Delhi – Akash Vashishta Vs. Union of India & Ors. (Protection of urban green and mitigation of environmental pollution.)**

➤ **Writ Petition No. 376 /2014 filed by Major Sandeep Donald Shah in the Supreme Court of India against Union of India & Others. Regarding incorporating Disaster Management provisions and awareness among the public for structural safety**

➤ **Writ Petition (PIL) No.42/2010 filed by Indrabhanu the Non – Governmental Organization -vs- UOI &Others(Regarding to ensure compliance of regulations for implementation of barrier free environment in the city of Nagpur .**

# WAY FORWARD

- States need to proactively amend their T&CP Acts to incorporate the provisions of 74<sup>th</sup> CAA on the lines of Bihar and Kerala.
- States also need to amend Building Regulation as per the directions of Ministry of Urban Development
- Efforts to be made to operationalize the MPC and DPC with appropriate role of T&CP Departments.
- Integration of Sectoral Plans with Master Plans with provision of notification of the same.
- Any future amendments to be need based with wider stakeholder consultations
- Regulatory framework to be reengineered which ought to be people's friendly and with an enabling environment in a time bound and transparent manner.



➤ Revision of Model Town and Country Planning Law to be undertaken keeping in view the emerging issues and dynamism of spatial planning.

➤ TCPO and SPA together may attempt for this exercise as a follow up of the URDPFI Guidelines.



**THANKS FOR YOUR KIND ATTENTION**