

CIRCULAR No. 214

SUBJECT- Circular regarding issue of N.O.C. under Urban Ceiling Act, 1976.

Instructions regarding Certificate to be issued under section 19(i)(iv) of the Urban Land (Ceiling and Regulation) Act, 1976.

(1) Under section 3 of the Urban Land (Ceiling and Regulation) Act, 1976 no person, other than one expected under the provisions of the Act is entitled to hold any vacant land in excess of the ceiling limit in the territories to which the said Act applies. The ceiling limit is defined by the Act. It is important to note under section 2(i) the expression "person" is defined so as to include an individual, a family, a firm, a Company or an Association or Body of individuals, whether incorporated or not. The definition is so wide as to include public trusts.

(2) However, section 19(i)(iv) of the Act lays down that subject to the provisions of sub-section (2) of section 19 nothing in Chapter III of the Act shall apply to any vacant land held by any charitable or religious trust (including Wakf) and required and used for any public charitable or religious purposes. Proviso to sub-clause (iv) lay down further that the exemption under this clause shall apply only so long as such land continues to be required and used for such public purposes or charitable purposes by such trusts. Section 19(2) makes it clear that exemption granted under sub-section 19(I) shall not be construed as any exemption in favour of any person, other than the Authority, Institute or Organisation specifically in sub-section (I), who possesses any vacant land which is owned by such Authority Institute or Organisation or who owns any vacant land which is in the possession of such Authority, Institute or Organisation. Proviso to section 19(2) lays down further that where any vacant land is in the possession of such authority, Institute or Organisation but owned by any other person, is declared as excess vacant land in Chapter III of the said Act, such Authority, Institute or Organisation shall notwithstanding anything contained in any of the provisions or Chapter III continue to possess such land under State Government on the same terms and conditions subject to which it possess such land immediately before such declaration.

(3) Attention is invited in this context specifically to the definitions of the expressions "to hold" and "to possess vacant land" given in section 2(I) and Explanation to section 19(2) respectively of the said Act.

(4) The implications of aforesaid provisions are of vital consequence in view of other provisions of the Urban Land (Ceiling and Regulation) Act, 1976. A large number of public trusts are likely to seek the benefit of section 19(I)(iv) of the Urban Land (Ceiling and Regulation) Act, 1976.

(5) It should be borne in mind that before any public charitable or religious trusts qualifies for exemption under section 19(I)(iv) it must fulfill the following conditions:-

(a) It must be a bonafide public charitable or religious trust.

(b) It should hold land and require and actually use it for any public charitable or religious purposes, emphasis is on requirement as well as actual use of the land for the public charitable or religious purposes. Therefore if the land is proposed to be used for such purposes in future it will not be covered by exemption contained in section 19(I)(IV).

(c) The exemption under section 19(I)(iv) shall apply only so long as such land continues to be required and used for such purposes by public Charitable or religious Trusts. Here, again, the emphasis on the expression "required and used". Therefore, if the land is not used for a public charitable or religious purpose at any point of time, then from such time, it shall not qualify for exemption under section 19(I)(iv);

(d) The expression "Vacant land" is defined for the purposes of the Act in section 2(q) to mean land not being land mainly used for the purpose of agriculture, in an urban agglomeration and certain categories of land specified in that section are explicitly excluded from the scope of the said definition.

(6) In order to achieve implementation of the provisions of the Urban Land (Ceiling and Regulations) Act, 1976, the Government of Maharashtra have issued instructions to several authorities to insist upon the certain compliance before exercising their respective jurisdiction in respect of matters, touching the landed properties, which are likely to be governed by the provisions of the said Act. Several Public trusts are therefore likely to apply for "No objection Certificate" from the Charity Organisation so as to enable them to take steps concerning their properties, Under orders separately issued by the Charity Commissioner, the powers of issuing No Objection Certificates are delegated to--

(1) Assistant Charity Commissioner, Poona Region, Poona.

(2) Assistant Charity Commissioner, Nasik Region, Nasik.

(3) Deputy Charity Commissioner, Nagpur Region, Nagpur.

(4) Deputy Charity Commissioner, Greater Bombay Region, Bombay.

(5) Assistant Charity Commissioner, Kolhapur Region, Kolhapur.

(7) While issuing "No Objection Certificate" the above said officers are directed to bear in mind the following instructions:-

(i) In view of the importance of "No Objection Certificate" issued by the Charity Organisation, Certificate should be issued only on careful scrutiny of the facts and through application of mind.

(ii) A form for preferring an application for issue "No Objection Certificate" is prescribed by this office. A copy of it is enclosed herewith. The Officers in question should insist on obtaining information on the points indicated in the application form.

(iii) They should verify, with the help of the Inspectors working within their jurisdiction the correctness of the information and particulars of application.

(iv) It should be ascertained whether the case falls clearly within the provisions of section 19(I)(iv) of the Ceiling Act.

(v) If the case falls within 19(I)(iv) of the Urban Land (Ceiling and Regulation) Act, 1976 and if it is found that the vacant land held by any public charitable or religious trust (including wakf) and is required and used for any public charitable or religious purposes the Certificate shall be issued in the following form.

"Certified that the vacant land admeasuring..... bearing No..... at is a land held possessed byWhich is a public charitable or religious trust bearing P. T. R .No. and the same is required and being actually used for a public charitable or religious purposes.

Dated thisday of1977.

(8) Copies of Confidential Circular No. ULC. 1076/XXXV, dated 17th December 1976 and letter dated 10th March 1977 issued by General Administration Department, Government of Maharashtra are enclosed herewith. Directions given in the said Circular should be scrupulously followed while issuing "No Objection Certificate".

(9) Where the land or property in respect of which the No Objection Certificate is sought by a Public Trust does not fall within the scope of Section 19(1)(iv) for the reason that the property is not a vacant land as defined in the Act e.g. where the construction is being made on the upper floor of the building and local authorities have insisted upon a No Objection Certificate from the Charity Organisation for the purpose of granting permission of construction etc, or some such reason but No Objection Certificate from the Charity Organisation is insisted upon by the local authorities for their purpose, the Certificate shall be issued in the following form:-

"Certified that section 19(I)(iv) of the Urban Land (Ceiling and Regulation) Act 1976 has no application to the property admeasuring bearing No..... at held/possessed by P.T.R. No..... for the reasons.

*(1) that it is not a vacant land within the meaning of the terms defined in the said Act.

*(2)

*(Strike out whichever is not applicable).

"The Charity Organisation has no objection to allow construction alterations or repairs on the said property.

Dated this day of 1977".

(10) The cases in which "No Objection Certificate" are sought for facilitating transfers of the properties and the cases in which the Regional Officers have entertained doubts about the implications of law and facts, should be referred to this office with their remarks.

V.G. NIRGUDE,
Charity Commissioner,
Maharashtra State,
Bombay

Dated :
