



GOVERNMENT OF KARNATAKA NOTIFIES AMENDMENTS TO KMC AND BBMP LEGISLATIONS

The Government of Karnataka has today, i.e., 13.01.2022 notified the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2021 (Karnataka Act No. 01 of 2022) (**the Act**). The Act has brought the following amendments to Karnataka Municipal Corporations Act, 1976 (the KMC Act) and the Bruhat Bengaluru Mahanagara Palike Act, 2020 (the BBMP Act). The Act repeals earlier Karnataka Municipal Corporations and Certain Other Law (Amendment) Ordinance, 2021.

AMENDMENTS TO KARNATAKA MUNICIPAL CORPORATIONS ACT, 1976

Section 299A

- The Act has inserted a new Section 299A for the levy of imposts, restrictions, and conditions in respect of BBMP.
- This new Section 299A provides that the Commissioner may charge and levy the following fee at such rates based on the guidance value for the approval or sanctioning the plan or grant of commencement certificate (CC) and occupancy certificate (OC) –
 - fee for issuance of license;
 - fee for security of the building for which license granted;
 - fee for maintenance of public roads or storing of construction materials in public places during construction viz, ground rent;
 - security fee, ensuring that the construction is in accordance with plan sanctioned;
 - fee for commencement certificate;
 - fee for occupancy certificate;
 - penalty imposed at the time of issuance of occupancy certificate for not obtaining commencement certificate at the commencement of the construction;
 - penalty for regularization up to 5% of violation or deviation in the construction with respect to sanctioned plan or zonal regulation limit; and
 - such other fee as specified by the Government from time to time.

Section 299B

- The new Section 299B of the KMC Act enables the State Government to reduce or waive the fees mentioned in Section 299A for certain State and Central government projects.

Section 299C

- Section 299C legitimises all the levies (including fees, taxes, etc.) made vide all the demand notices issued by the BBMP. It deems all such levies to be made under the new Section 299A of the KMC Act. Further, this Section provides the following
 - all acts, proceedings or things done, or any action taken by the Government or the Bruhat Bengaluru Mahanagara Palike officers, as the case may be, in connection with the levy, assessment or collection of any amount as fee **for all purposes be deemed to be and to have always been made, done or taken in accordance with law;**
 - no suit or other proceeding shall be maintained or continued in any Court or Tribunal or before any authority for the refund of any such fee; and
 - no Court shall enforce any decree or order directing the refund of any such fee.

BRUHAT BENGALURU MAHANAGARA PALIKE ACT, 2020

Section 240A

- The new Section 240 A inserted in the BBMP Act is almost a repeat of the new Section 299A of the KMC Act.
- The additional provisions in Section 240A are that the Chief Commissioner while fixing the rates for levy of fee or penalty shall consider all the costs related to the issue and execution of the approval as he may deem fit.
- This new Section 240A provides that the Chief Commissioner may charge and levy the following fee at such rates based on the guidance value for the approval or sanctioning the plan or grant of commencement certificate (CC) and occupancy certificate (OC) –
 - fee for issuance of license;

- fee for maintenance of public roads or storing of construction materials in public places during construction viz, ground rent;
- security fee ensuring that the construction is in accordance with plan sanctioned;
- fee for commencement certificate;
- fee for completion certificate;
- such other fee as specified by the Government from time to time;
- charge and levy any other deposit or fee or cess specified under any other law in force.

Section 240B

- The new Section 240B of the BBMP Act enables the State Government to reduce or waive the fees mentioned in Section 240B for certain State and Central government projects.

Section 240C

- Section 240C legitimises all the levies (including fees, taxes, etc.) made vide all the demand notices issued by the BBMP. It deems all such levies to be made under the new Section 240A of the BBMP Act. Further, this Section provides the following
 - all acts, proceedings or things done, or any action taken by the Government or the Bruhat Bengaluru Mahanagara Palike officers, as the case may be, in connection with the levy, assessment or collection of any amount as fee **for all purposes be deemed to be and to have always been made, done or taken in accordance with law;**
 - no suit or other proceeding shall be maintained or continued in any Court or Tribunal or before any authority for the refund of any such fee; and
 - no Court shall enforce any decree or order directing the refund of any such fee.

OUR COMMENT

The present amendments now regularize office order dated 09/12/2021 which mandated levies of ground rent, license fee, scrutiny fee, etc., to be computed on the basis of guidance value *vide* authority under the Karnataka Municipal Corporations and Certain Other Law (Amendment)

Ordinance, 2021. Yet again, as in the case of the ordinance, not much discussion and debate seems to have happened in the legislature on the pros and cons on the draconian amendments. In the guise of saving the BBMP from extending refund in terms of the order of the Hon'ble High Court dated 04/08/2021 in WP No. 4601/ 2021, the State Government has embarked on a dangerous trajectory which affords unbridled and uncontrolled power to the BBMP, which could result in retrospective and retroactive demands, besides being violative of the fundamental principles enshrined in our Constitution. This is also in effect a fraud on the citizenry who having agitated their rights before the Constitutional court now feel betrayed and helpless.

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