

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No.5 CUTTACK, SATURDAY, JANUARY 2, 2009 /PAUSA 12, 1931

HOUSING & URBAN DEVELOPMENT DEPARTMENT

NOTIFICATION

The 1st January 2010

S. R. O. No. 2/2010—The State Government have been pleased to extend the time limit of the Regularisation of Unauthorised/ Deviated Construction through Compounding Scheme for Cuttack Development Authority plan area published in *Orissa Gazette*(Extraordinary) vide No.6, dated 3-1-2009 for a further period of six months with effect from 2-1-2010 by incorporating certain modifications therein. The modified scheme is as follows:

MODIFIED SCHEME FOR REGULARISATION OF UNAUTHORISED/ DEVIATED CONSTRUCTIONS THROUGH COMPOUNDING

1. Short Title and Commencement :

- (1) This scheme may be called the Regularization of Unauthorized/Deviated Constructions through Compounding Scheme for the Cuttack Development Authority Plan Area.
- (2) It shall be applicable to Development Plan Area of Cuttack Development Authority.
- (3) It shall come into force on the date of its publication in the *Orissa Gazette*.

2. Definition :

- (1) (i) “Approved Plan” means the building plan approved by Cuttack Development Authority, Cuttack, erstwhile Greater Cuttack Improvement Trust / Special Planning Authority or any Urban Local Body empowered under provision of Act/Rule from time to time.
- (ii) “Unauthorized Construction” means construction undertaken in contravention to the approved plan and without any approval/sanction of the Competent Authority.

(2) Words and expressions used in this scheme but not defined shall have the same meaning as assigned to them in the Orissa Development Authorities Act, 1982 and rules made thereunder and Cuttack Development Authority (Planning & Building Standards) Regulations, 2001.

3. The Scheme:

- (i) The Scheme is applicable only to unauthorised /deviated construction undertaken within the jurisdiction of Cuttack Development Authority prior to the date of notification of this scheme.
- (ii) The Scheme is intended to give one time opportunity to individuals/ Agencies for regularizing their unauthorised/deviated constructions beyond 5% of the permissible limit subject to restriction laid down in clause 4 by way of compounding at the rate indicated at Clause 5 of the Scheme.
- (iii) The Unauthorized/Deviated Constructions undertaken after the date of publication of the scheme shall not be covered under this scheme.
- (iv) The construction undertaken shall mean and include the construction undertaken in full and part construction which cannot be changed/reversed unless the original structure is demolished.
- (v) No application under this scheme shall be received after expiry of a period of six months from the date of its publication in the *Orissa Gazette*.
- (vi) Any further construction over and above the construction under consideration for regularization shall not be regularized and such construction shall be deemed unauthorised for the purpose of demolition/removal. The benefit once availed shall be final and binding for all purposes.
- (vii) The structure or part of the structure which have already been compounded and /or necessary orders have been passed for compounding shall not be reopened but, however, non-compliance of said order shall not be treated as if compounded. The present scheme is over and above any such compounding made on terms and conditions fixed in this scheme.
- (viii) Any application for regularization under this Scheme should not be construed as if the unauthorised construction *ipso facto* has been regularized. The Authority reserves the right to reject the application on one or any of the grounds specified under Clause 4 of the Scheme. Any further construction taken up during pendency of the application for regularization should be deemed as unauthorised and shall also be a ground to reject the application.
- (ix) The permission to regularize/compound the construction will not confirm any right, title and interest over the land.

4. Restriction on Compounding:

Compounding of an offence pertaining to unauthorised construction shall not be allowed in case:

- (i) Where construction has been undertaken on Government land or land belonging to

local body or over land of any person other than the person undertaking such development.

(ii) Where construction has been undertaken unauthorisedly within the prohibited limits of any protected archaeological monument declared by A.S.I. & State Archaeology. However, the regularization of construction beyond 30 Mt. of any protected monuments shall be considered only after production of No Objection Certificate from ASI/ State Archaeology.

(iii) Where construction has been undertaken unauthorisedly violating the requirement of parking space in case of Commercial, Group Housing Project, Residential Apartments & Institutional building.

(iv) Where construction has been undertaken over Public/Private road/Drain and on the alignment of the natural drainage channel identified by the Development Authority.

(v) Where construction has been undertaken violating the height limitation for the area notified for Archaeological and Heritage zone.

(vi) Where the plot does not have any authenticated access/approach to the plot.

(vii) Where the KISSAM of land has not been converted for non-agricultural use/gharabari.

(viii) Where the land on which the building situates, is not in conformity with the land use in the Development plan, Zoning Regulation enshrined in the Cuttack Development Authority (Planning & Building Standards) Regulation, 2001, and decisions taken by the Authority from time to time including land use in different schemes.

(ix) Any change of use to residential or any compatible use or use prescribed in Interim Development Plan conforming to the building norms specified in the Scheme shall be deemed to have been covered. But, however, the above provision will not be applicable to construction made within the housing scheme undertaken by Cuttack Development Authority, Orissa State Housing Board, any approved private schemes & any State owned organizations.

(x) Where the Regularisation of the building in the opinion of the Authority will affect public interest and safety.

5. Compounding Rate:

(A). Compounding rates for various categories shall be as follows:

Sl. No.	Situation	Rate for Compounding fee in Rs./Sqft.		
		Residential building	Commercial, Institution, Industrial & other type of building	Central Govt. & State Govt. building
A	B	C	D	E
1	Construction undertaken deviating the approved plan but beyond 5% permissible norms of CDA (P & B S) Regulations, 2001.	15	25	1
2	Construction undertaken without approval of plan and violating the permissible norms of CDA (P & B S) Regulations, 2001.	20	40	1

NOTE—(A) (The scheme & rate will be valid for a period of six months from the date of notification of this Regulation in the *Orissa Gazette* and the compounding fee will be charged upon the deviated / unauthorised portion only).

(B) The above compounding rate shall be applicable for unauthorised/deviated construction up to FAR 3.00 (Floor Area Ratio)

(C) Notwithstanding the above Clause 5 (B) and considering character of the 1000 year old City of Cuttack with narrow lanes and old bastees, the maximum limit of FAR 3.00 shall only be relaxed in case of building fulfilling the following conditions and after submission of documents, namely:—

- (i) Construction undertaken prior to enforcement of O.D.A. Act, 1982 ;
- (ii) The building shall be exclusively a residential building ;
- (iii) There is provision of drainage and sewerage facilities and N.O.C. from Cuttack Municipal Corporation is required to be submitted on above aspects ; and
- (iv) No Objection Certificate from neighbouring plots.

However, the compounding rate shall be charged double the above rate where the FAR exceeds 3.00. (For excess area only).

(D) A token compounding of Rs. 2,000 (Rupees two thousand) only be realized towards regularization of unauthorised / deviated construction up to two floors undertaken over plots having an area up to 100 Sqm. The construction of 2nd floor or beyond may however be compounded on realization of compounding fee as rate determined in Clause 5 (A). This provision will also be applicable for plots within scheme area.

(E) In case of building used for institutions, Assembly such as School, College, Hospital, Cinema Hall, other Public Assembly Halls, Kalyan Mandap, Meeting Hall and alike, structural certificate from a Structural Engineer of repute shall have to be submitted.

(F) Where constructions have been undertaken inside 1 meter setback, a compounding fee of Rs. 150 per Sft. shall be charged for the construction area within the above limit. If NOC from the neighbours of that side have been submitted, the same will be compounded in normal rate as provided in Clause 5(A) of the Scheme.

(G) In case of regularization of unauthorized Lay-out, the applicant shall pay Rs. 100 per Sqm. on developed land.

(H) The Unauthorized / Deviated construction within 100 Mtr. from the Centre of the N.H. and Railway track on either side shall be compounded if the use conforms to the use contained in the earlier Regulation.

(I) In case of structures with a height of 15 Mtrs. or more and with more than 4 floors excluding Basement/Stilt (Multistorey structures), the regularization under this scheme shall be considered after fulfillment of following conditions, namely :—

(i) Where development has been undertaken in violation of the approved plan but within his plot having a minimum setback of 4.5 Mtr. in all the four sides. This provision is necessary to facilitate fire tender to move around the building in case of fire. However, the Authority may relax the said condition with reference to setbacks in case, certificate from Fire Prevention Officer is obtained to the extent that there are alternative provision to provide Fire safety.

(ii) Where development has been undertaken in deviation of approved plan but within the maximum FAR of 3. No regularization of structures will be allowed in case of constructions made over public/Government land excepting the constructions as detailed at Clause 5 (C).

(iii) No multistoried structure will be considered for regularization where the required parking space both covered (Stilt / Basement) and open space is used otherwise.

(iv) The provision of lift is mandatory.

(v) Submission of No Objection Certificate from CMC with reference to smooth discharge of storm water as well as domestic refuse water from the premises.

(vi) A Certificate for structural safety from a Structural Engineer of repute / concerned Structural Engineer or from a State owned Institute to be submitted stating that the building is structurally safe.

(vii) Affidavit to be submitted by Land Owner/Developer/Occupants declaring their responsibility in case of structural failure/fire etc. in future.

(viii) While submitting the plan for regularization as per the existing structure the owner / authorised agent / legal heir in favour of which permission was granted will furnish an undertaking on the form of an affidavit to the effect that :—

(i) He/She shall not undertake/permit to undertake any further construction either by himself or by the occupier subsequent to the regularization made.

(ii) The owner/occupier shall submit the detailed particulars of formation of the Society as required under Apartment Ownership Act & the Society shall also furnish the undertaking not to undertake any additional construction without permission of the Cuttack Development Authority and in case of such construction that shall be deemed as unauthorised which would be demolished at their costs without waiting for initiation of any further proceeding.

(J) The application for regularisation of unauthorised construction shall be filled in and submitted to Cuttack Development Authority within a period of Six months from the date of publication of Scheme in *Orissa Gazette* as per procedure detailed below in Clause 6.

(K) Cuttack Development Authority shall not accept any application if the same is not submitted along with the certificate from an empanelled Technical person.

(L) The deposit of compounding amount shall be in addition to the scrutiny fee required to be deposited as per rule-18 of O.D.A. Rules, 1983. The rates of scrutiny fee are furnished at Annexure-I.

6. Application Procedure :

Person desirous of availing the benefit under the scheme shall apply in the prescribed Form-A along with the following documents within six months from the date of publication of this scheme in the *Orissa Gazette*.

- (i) Seven copies of building plans as per actual construction at site showing site plan, layout plan, floor plan, four side elevations, drainage & sewerage disposal plan Rain Water Harvesting structure etc. duly signed by plot owner/Developer and the Architect / Engineer/Technical person.
- (ii) Copy of ownership documents of land.
- (iii) Copy of approved plan and approval letter, if any.
- (iv) Affidavit in the prescribed Form-B regarding peaceful possession of the land and construction undertaken at site.
- (v) Certificate in prescribed Form-C on Structural Stability of the building by a Structural Engineer, as the case may be.
- (vi) Photograph of the building from two angles duly signed by the applicant and attested by the concerned technical person with date. The applicant shall have to affix his two recent photographs on the body of the application.

7. Fees :

(i) Scrutiny Fee— The applicant shall have to pay the scrutiny fee as per the rates mentioned at Annexure-I.

(ii) Compounding Fee—The application shall be accompanied by original Bank challan receipt towards payment of self assessed compounding fee as per the rates specified at Clause-5 (A). The scrutiny fee and the self assessed compounding fee shall be deposited in one instalment with Cuttack Development Authority in two separate Bank Draft/Bank Challan drawn in any Nationalized Bank payable at Cuttack in favour of Cuttack Development Authority. The differential amount, if any, shall be paid within 30 days from the date of receipt of intimation from Cuttack Development Authority. Extra amount deposited, if any, shall be refunded without interest.

8. Penalties:

In the event of misrepresentation or/and suppression of facts, compounding fee shall be forfeited and the permission for regularisation so issued shall be revoked.

The matter shall be reported to the council of Architecture, New Delhi for cancellation of the licence/ registration of the concerned Architect. This shall warrant criminal prosecution against the applicant/architect.

9. Miscellaneous:

- (a) Applications complete in all respect, shall be dealt on “First come first serve” basis and disposed of within a maximum period of six months from the date of submission of the application.
- (b) The Authority reserves the right to initiate proceedings against unauthorised/ deviated construction under the Orissa Development Authorities Act, 1982, where the cases can not be regularized under this scheme. However, prior to rejection of the application and initiation of Unauthorised Construction Proceeding, the applicant shall be given opportunity to show cause.

- (c) Summary of the cases disposed of under the Scheme shall be published through a Public Notice as provided in the relevant Regulation of the Authority.
- (d) Any person aggrieved by the decision of the Authority may prefer appeal under Section 18 of Orissa Development Authorities Act, 1982 and the decision of the Appellate Court shall be final.
- (e) The regularisation of multistorey building applications shall be placed before the Building Permission Committee of CDA and then before the Authority.
- (f) The Group consisting of representatives of C.D.A., P.H.E.D. & Municipal Engineer will form a panel to take up random checking of construction on the site.

[No.47-TP. Dev. -92/2008-HUD.]

By order of the Governor

A. K. PANDA

Commissioner-*cum*- Secretary to Government