



GOVERNMENT OF KERALA

Abstract

Local Self Government Department – Thrissur Corporation – Request for issuance of building permit as per unamended rule – permission granted to the Secretary, Thrissur Corporation - --Orders Issued

LOCAL SELF GOVERNMENT (RB) DEPARTMENT

G.O.(Rt) No. 1557 /2012/LSGD, Dated, Thiruvananthapuram, 7.6.2012

- Read:-**
- 1. Lr.No.DW-3/BA/33/09-10 dated 10/2/2012 from the Secretary, Thrissur Corporation, Thrissur.**
 - 2. Lr.No.C2/2015/12 dated 21/3/2012 from the Chief Town Planner, Thiruvananthapuram**
 - 3. Petition dated 26/04/2012 put in by Sri.M.Unnikrishnan and Smt.P.Girija, Pranavam, Paliyam Road, Thrissur.**

ORDER

In the letter read as the 1st paper read above, the Secretary Thrissur Corporation has requested to give permission to issue building permit to Sri.M.Unnikrishnan and Smt.P.Girija, Pranavam, Paliyam Road, Thrissur for the proposed construction in Survey No.231/1-P at Thrissur Village in Thrissur Corporation as per the building rule existed at the time of submitting the application for building permit.

The petitioner applied for building permit for a (1) basement + ground + 11 floor building with a total height of 36.00 metres attached to (2) a three storied building which was meant for his own residential use on 27/5/2009. The FAR sought was 3.4. Petitioner was asked vide Corporation letter dated 24/10/2009 to produce NOC from fire force and consent letter from Pollution Control Board. On 11/12/2009 petitioner requested permission to start construction of three storied annexe portion, which was allowed on 2/2/2010. The NOC of Fire and Rescue Force was received by the corporation on 18/12/2009, although the petitioner received it on 13/11/2009.

The amendments of the building rules came into force vide G.O. dated 16/12/2009 although the date of publication of the gazette notification was 22/1/2010.

In the letter read as 2nd paper above, the CTP has also reported that there is no specific provision in the rules regarding the production of NOC from Pollution Control Board. However the rule stipulate that the existing rule at the time of issuance of builing permit is applicable in all cases. He has also remarked that if government desires more clarification on this point it is better to obtain legal opinion which was accordingly obtained.

The petitioner's in their petition read as 3rd paper above requested to consider their case in accordance with the unamended rules as the notice for the rectification of defects was not received in time. The Petitioner's were given a personal hearing on 23.5.2012 also wherein they have pointed out that there occurred only two days delay in submitting the fire NOC. Moreover in the judgment in WP(C)No.29021/2010 dated 03/11/2011 the Hon. High Court has remarked that if the application for building permit was kept pending beyond the statutory period and if the amended Rules came into force the application has to be considered under unamended Rules. The petitioner has already initiated part construction of the building based on permit for one (Annexe) portion of his builing. The corporation has also recommended that in specific facts of the case, the petitioner should be allowed the benefit of old building rules particularly since the delay caused due to insistance of NOC from Pollution Control Board was a mistake on the part of the corporation.

Government have examined the case on the basis of the judgment in WP(C)No.29021/2011 and are pleased to grant permission as a special case to the

Secretary, Thrissur Corporation, Thrissur to issue building permit to Sri.M.Unnikrishnan and Smt.P.Girija, Pranavam, Paliyam Road, Thrissur for the proposed construction in Survey No.231/1-P at Thrissur Village in Thrissur Corporation as per the building rule existed at the time of submitting application for building permit subject to the condition that FAR (3.4) has to be fixed as in the original permit application and the petitioner should provide 5 metre set back on all sides of the high rise portion of the building . This would not be a precedent for any other cases in future.

By Order of the Governor
Rajesh Kumar Singh
Secretary to Government.

To

Sri.M.Unnikrishnan and Smt.P.Girija, Pranavam, Paliyam Road, Thrissur.

The Chief Town Planner, Thiruvananthapuram.

The Secretary, Thrissur Corporation, Thrissur.

stock file / O/C

Forwarded By Order

Section Officer