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भारत सरकार GOVERNMENT OF INDIA
रेलमंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)

No. 2011/LMB/WCS/22/07/25/Pt. I New Delhi, Dated: 04.06.2022

The General Managers,
All Zonal Railways

Vice Chairman,
Rail Land Development Authority

Sub: Statutory clearances to be examined during Master Planning of station redevelopment projects

Ref.:

1. Railway Board's letter no. 2011/LMB/WCS/22/07/25/Pt. I dated 17.10.2018
2. Ministry of Housing and Urban Affairs' letter no. K-14011 /05/2016-UT-I dated 13.11.2019
3. Ministry of Environment, Forest and Climate Change's letter F. No. 11-37/2016FC(PI)LWF.NO.17-12/2016FC dated 10.03.2022
4. Ministry of Environment, Forest and Climate Change's letter F.No. 10-172/2018/IA-III dated 28.05.2020
5. Railway Board's letter no. 2021/SD-2/22/01/12 dated 16.07.2021
6. Railway Board's letter no. 2019/LML-II/2/11(133) dated 30.01.2020

The issue of local body clearances for Station Development projects has been raised by one of Zonal Railways during the workshop on Station Development held on 05.05.2022. This is a complex issue with multiple dimensions and Zonal Railways are advised to deal it carefully.

2.0 The powers of railway administration to execute certain works for operation and maintenance of a railway are covered in Section 11 of The Railways Act, 1989. Section 11 of The Railways Act, 1989 starts with the non-obstante clause " Notwithstanding anything contained in any other law for the

time being in force". Thus, by virtue of the overriding provisions of this clause, Section 11 prevails over provisions of other Acts.

3.0 Railway Board vide its instructions dated 17.10.2018 has already communicated the decision of Union Cabinet dated 03.10.2018 on the Cabinet Note on "Redevelopment of Railway Stations". These instructions inter alia stated, "Railways/RLDA/IRSDC shall consult urban local bodies/ other statutory authorities while approving its plans in terms of power conferred to it as per section 11 of Railway Act' 1989, so that the development in Railway land is harmonious with the surrounding development, generally following the National Transit Oriented Development (TOD) Policy. No change in land use is required Pan India by Railways for developing Railway land for commercial use."

4.0 Subsequently, Ministry of Housing and Urban Affairs vide its letter F. No. K-14011/05/2016-UT-I dated 13.11.2019 has advised all States and UTs to incorporate suitable provisions in the local by-laws/development control norms in congruence with the National ToD policy as well as relevant provisions of the Railways Act and thereby facilitating Railways/RLDA/IRSDC to proceed with their development plans in consultation with local bodies/other statutory authorities at the earliest.

5.0 Ministry of Environment, Forest and Climate Change vide its letter no. 11-37/2016FC(PI)LWF.NO.17-12/2016FC dated 10.03.2022 advising all States/UTs inter alia clarified that:

i. For execution or maintaining of Railways works on Railway owned land within Railway's right of way under Section 11 of Railways Act 1989, notwithstanding the directions of Hon'ble Supreme Court given in the judgement in TN Godavarman Thirumalpad v. Union of India, (W.P. (C) 202/1995), the need for obtaining the approval of the Central Government under section 2 of the Forest (Conservation) Act, 1980 will not arise.

ii. Section 11 of the Railways Act would also operate for execution or maintaining of Railway works on Railway owned land within Railway's right of way, notwithstanding anything to the contrary in the Wildlife (Protection) Act, 1972.

6.0 Ministry of Environment, Forest and Climate Change vide its letter F.No. 19-172/2018/IA-III dated 28.05.2020 has inter alia clarified that Projects in Land appurtenant to 'railway', identified for commercial development in and around the railway stations shall be exempt from seeking prior environmental clearance under the provisions of the EIA Notification, 2006 subject to the projects to draw up a sustainable Environment Management Plan(EMP) duly approved by EnHM Directorate of the Ministry of Railways.

Railway Board issued instructions for operationalising the above guidelines vide its letter no. 2021/SD-2/22/01/12 dated 16.07.2021.

7.0 The above powers are however not intended to exempt certain statutory clearances like fire clearance, permissions pertaining to civil aviation, security matters etc.

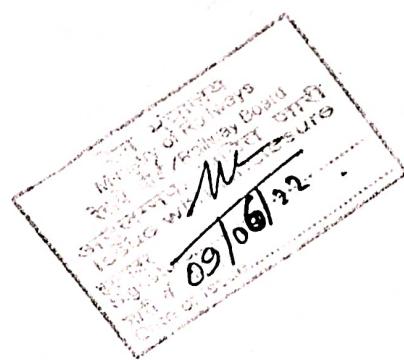
8.0 In many station upgradation projects, commercial development is also included. It is obvious that appropriate consultation with concerned authority should be carried out while finalizing the plans for development. The decision by Union Cabinet mentioned in para 3.0 above may be followed towards the same. Copies of the above referred letters are enclosed herewith. Each case may be seen in appropriate legal context as the powers are not unfettered. Consultation should be differentiated from consent as per the specific details of the case.

9.0 The Terms of Reference of the consultants appointed for Master Planning of the stations should accordingly have suitable provisions for appropriate clearances and consultations as per the stages of the projects.

DA/- as above

R on 6.6.22
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O/C



Assume final pl.