

AS INTRODUCED IN LOK SABHA

Bill No. 355 of 2019

THE DELHI PREVENTION OF SEALING BILL, 2019

By

SHRI PARVESH SAHIB SINGH, M.P.

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BILL

to prevent arbitrary sealing of properties in unauthorised manner in NCT of Delhi and to dissolve and replace the monitoring committee set up by the Hon'ble Supreme Court by a Special Task Force and to establish a committee to review all the sealing done by the monitoring committees and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

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- 1. (1)** This Act may be called the Delhi Prevention of Sealing Act, 2019.
(2) It extends to whole of Delhi.

Short title,
extent and
commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provisions to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.	2. In this Act, unless the context otherwise requires,—	5
	(a) "Delhi" means the entire area of the National Capital Territory of Delhi except the Delhi Cantonment as defined in clause (11) of section 2 of the Delhi Municipal Corporation Act, 1957;	
	(b) "encroachment" means unauthorised occupation of Government land or public land by way of putting temporary, semi-permanent or permanent structure for residential use or commercial use or any other use;	10
	(c) "local authority" means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957 or the New Delhi Municipal Council established under the New Delhi Municipal Council Act, 1994 or the Delhi Development Authority established under the Delhi Development Act, 1957 legally entitled to exercise control in respect of the areas under their respective jurisdiction;	15
	(d) "Monitoring Committee" means the committee appointed by the Hon'ble Supreme Court <i>vide</i> its Order dated 24th March, 2006 in the case titled "M.C. Mehta v. UoI (2006) 3 SCC 429";	
	(e) "relevant law" means in case of—	20
	(i) the Delhi Development Authority, the Delhi Development Act, 1957;	
	(ii) the Municipal Corporation of Delhi, the Delhi Municipal Corporation Act, 1957; and	
	(iii) the New Delhi Municipal Council, the New Delhi Municipal Council Act, 1994;	25
	(f) Special Task Force (STF) refers to the body constituted under section 3; and	
	(g) 'Sealings Review Committee' refers to the body constituted under section 5;	
	(h) "unauthorised development" means use of land or use of building or construction of building carried out in contravention of the sanctioned plans or without obtaining the sanction of plans, or in contravention of the land use as permitted under the Master Plan or Zonal Plan or layout plan, as the case may be, and includes encroachment.	30
Constitution of the Special Task Force.	CHAPTER II	
	COMMITTEES	
	3. (1) The Central Government shall, by notification, constitute a body known as Special Task Force to exercise the powers conferred on, and to perform the functions assigned to it under this Act.	35
	(2) The Special Task Force shall be a body under the Delhi Development Authority, Ministry of Housing and Urban Affairs.	
	(3) The Special Task Force may be the same body as established under the directions of the Hon'ble Supreme Court <i>vide</i> Order dated 24.04.2018 in M.C. Mehta v. UOI (2006) 3 SCC 429.	40
Powers and Functions of Special Task Force.	4. (1) The Special Task Force shall be entrusted with the task to ensure action against encroachments, unauthorised constructions, traffic congestions, take measures for traffic management, disaster management and overlook the enforcement of relevant laws by local authorities.	45

(2) For the purpose of enforcement of relevant laws, the Special Task Force shall have the power to seal any property or premises being used in contravention of the relevant laws.

(3) For the purpose of sealing, the Special Task Force shall follow the procedure laid down in section 5.

5 (4) Subject to sub-section (1), the Central Government may, by notification in the Official Gazette, frame rules to enhance the functions of the Special Task Force.

5. (1) The Special Task Force shall follow the following procedure at the time of sealing:—

10 (a) The Special Task Force, accompanied by the concerned municipal authority, if necessary, shall visit the premises allegedly misused for unauthorized activity and shall videograph the unauthorized activity in the presence of the persons who are misusing the premises for unauthorized activity.

15 (b) The Special Task Force shall ask to the persons misusing the premises for unauthorized activity to produce the permission or the licence to carry out such unauthorized activity.

20 (c) If the persons on demand of the Special Task Force, produce permission or licence authorizing the activity being carried out in the premises, no action shall be taken against such person.

(d) In case the persons are unable to produce any permission or licence, a forty-eight hours notice shall be given for providing an opportunity to obtain and produce the permission or licence as the case may be.

25 (e) The Special Task Force shall, after forty-eight hours, visit the premises again and if the persons concerned produce the licence or permission, as the case may be, no further action shall be taken.

(f) If the person concerned fails to produce any permission or licence, the premises shall be sealed due to the unauthorized misuse.

30 (g) If the person shall incharge gives an undertaking that the misuse shall be stopped, then another forty-eight hours time shall be given for stopping the misuse and an affidavit shall be also filed by the person concerned before the Sealings Review Committee that no unauthorized activity shall be started.

(h) The Special Task Force shall strive to complete the entire process of stoppage of unauthorized misuse within forty-eight hours, and in certain circumstances within ninety-six-hours.

(2) The Central Government may by notification make appropriate changes to the rules mentioned herein for effective implementation of the relevant laws.

6. The Central Government shall by notification, constitute a body known as the Sealings Review Committee to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

40 7. The Sealings Review Committee (SRC) shall consist of the following members, namely:—

- (a) The Members of Parliament from Delhi;
- (b) District Collectors;
- (c) Municipal Commissioners;
- (d) Representatives of Delhi Development Authority; and
- 45 (e) Two Urban Planning experts with experience of not less than ten years.

Procedure to be followed by the Special Task Force.

Constitution of the Sealings Review Committee.

Composition of Sealings Review Committee.

Functions of
the Sealings
Review
Committee.

8. (1) The Sealings Review Committee shall review and reconsider all the sealings undertaken at the instance of the Monitoring Committee and shall reapprove the sealing in accordance with the relevant laws.

(2) Any person whose premises has been sealed at the instance of the Monitoring Committee may also approach the Sealings Review Committee after making a deposit of one thousand rupees. 5

(3) Any person whose premises has been sealed at the instance of the monitoring committee and who has already filed an appeal before the appropriate statutory Appellate Tribunal or the Monitoring Committee, he may also approach the Sealings Review Committee for relief by depositing of one thousand rupees. 10

CHAPTER III

MISCELLANEOUS

Status of
Sealed
Properties.

9. (1) On and from the date of commencement of this Act, all premises that have been sealed at the instance of the Monitoring Committee shall be de-sealed.

(2) There shall be no permanent construction on the sealed property unless the property receives a clearance from the Sealings Review Committee. 15

(3) Notwithstanding anything mentioned in this section, premises sealed by the Special Task Force shall not be de-sealed on and after the commencement of this Act.

Dissolution of
the Monitor-
ing Commit-
tee.

10. (1) The Monitoring Committee shall cease to exist upon the commencement of this Act. 20

(2) All members of the Monitoring committee shall be entitled to all benefits and pensions as are available to an officer of the rank of Joint Secretary.

STATEMENT OF OBJECTS AND REASONS

A variety of illegal activities are carried out in the capital city of Delhi with respect to industries established in residential or non-conforming areas as well as misuse of residential premises for other commercial purposes. Inaction on these activities has led to, among other things, massive traffic, outrageous levels of pollution, respiratory problems and possible damage to the brain of infants and children. The Hon'ble Supreme Court, cognizant of this problem, appointed a Monitoring Committee *vide* its Order dated 24.03.2006 in the case titled M.C. Mehta v. Union of India (2006) 3 SCC 429. The Monitoring Committee was entrusted with the task to oversee the implementation of the laws dealing with residential premises used for commercial purposes and was given the power to seal the offending premises.

The Monitoring Committee, having been set up for more than thirteen years, sealed thousands of properties. However, the functioning of the Monitoring Committee has attracted severe criticism for its unfair and arbitrary method of sealing. The Committee, in most cases, does not give a prior notice of sealing to the occupier/in charge/owner of the sealed premises. Further, the aggrieved is denied the opportunity to provide any justification (oral or documentary) at the time of sealing. Thereafter, the aggrieved person, whose residential property has been sealed, is required to deposit a massive sum of one lakh rupees for an opportunity to appear before the Monitoring Committee. Alternatively, the aggrieved person is allowed to approach the statutory Appellate Tribunal which also involves huge cost and time.

Therefore, there is a need to formulate procedure which respects our constitutional principles of fairness and non-arbitrariness. This Bill lays down a procedure where for all sealings, a forty-eight hour notice must be provided to the occupier/incharge/owner of the premises. A notice may also furnish affidavit swearing to end the commercial use of such property. Further, the premises will only be sealed in accordance with the relevant laws and by following the procedure set for under this Act.

In addition to a fair procedure, the Bill also establishes a Sealings Review Committee for reassessing and reviewing all sealings undertaken at the instance of the Monitoring Committee. This Bill also seeks to dissolve the Monitoring Committee in favour of a Special Task Force formulated by the Central Government. Further, on the commencement of this Act, all sealings done at the instance of the Monitoring Committee shall be de-sealed, subject to approval from the Review Committee.

Hence this Bill.

NEW DELHI;
November 6, 2019.

PARVESH SAHIB SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for the constitution of a Special Task Force by the Central Government. Clause 6 seeks to provide for the constitution of a Sealing Review Committee by the Central Government. It also provides for payment of benefits and pensions to the members of the Monitoring Committee. Clause 10 provides for benefits and pensions to all members of the Monitoring Committee. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that sum of rupees twenty lakh rupees may involve as recurring expenditure per annum.

A non recurring expenditure of rupees ten lakh is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to frame rules to enhance the functions of the Special Task Force. Clause 5 empowers the Central Government to make appropriate changes to the rules for effective implementation of the relevant laws. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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