

**MINUTES OF THE 52nd MEETING OF THE MONITORING COMMITTEE HELD ON
04.02.2015 AT 5.00 PM AT MAIN CONFERENCE HALL AT CMDA**

Members Present:

1. Thiru Dharmendra Pratap Yadav, I.A.S.,
Vice-Chairman (i/c), CMDA and
Convenor, Monitoring Committee
2. Thiru Vikram Kapur, I.A.S.,
Principal Secretary/Commissioner,
Corporation of Chennai
3. Thiru M.G. Devasahayam, I.A.S., (Retd.,)
4. Prof. Suresh Kuppuswamy

Representatives:

5. Thiru S. Vijayasekar,
Joint Director (Northern Region),
DF & RS
6. Thiru G. Magesh Kumar
Executive Engineer
TANGEDCO

Special Invitees:

7. Thiru A. Karthik, I.A.S.,
Member-Secretary, CMDA
8. Thiru S. Selvakumar,
Chief Planner, CMDA
9. Thiru G.A. Baskara Rajan
Senior Law Officer, CMDA
10. Thiru S. Kumanan
Senior Planner
Regularisation Unit
11. Thiru C.K. Balasubramanian
Senior Planner
Enforcement Cell

Agenda Item 52.01 Reg. Unit – Leave of absence at the 52nd Monitoring Committee Meeting

Minutes Leave of absence was granted to the following members to the 52nd Monitoring Committee Meeting.

1. Dr. M. Saikumar, I.A.S.,
Chairman cum Managing Director,
TANGEDCO
2. Dr. B. Chandra Mohan, I.A.S.,
Managing Director,
CMWSSB
3. Tmt. E. Sundaravalli, I.A.S.,
Chennai District Collector
4. Thiru Ramesh Kudawla, I.P.S.,
ADGP
Director of Fire and Rescue Services
5. Thiru Durganand Balsavar,
Architect and Urban Planner

Agenda Item 52.02 Minutes of the 51st meeting of the Monitoring Committee – Confirmation of the minutes and Action taken report – subject placed before the Monitoring Committee.

Minutes Confirmed.

Agenda Item 52.03 Draft Action Taken Report on the Hon'ble High Court order dated 23.08.2006 in W.P. Nos. 18898 of 2000, 19998 of 2001, 24316 of 2002 and 17646 of 2006 filed by Citizen Action Group and Thiru K.R. Ramasamy Alias Traffic Ramasamy

Minutes **Action Taken Report on the Hon'ble High Court Order Dated.23.08.2006 in W.P. Nos. 18898 of 2000, 19998 of 2001, 24316 of 2002 and 17646 of 2006 filed by Citizen Action Group and Thiru K.R.Ramasamy @ Traffic Ramasamy.**

The Hon'ble High Court of Madras passed orders on the Building Regulation Scheme in its judgement dated 23.08.2006 on W.P.Nos.18898 of 2000, 19998 of 2001, 24316 of 2002 and 17646 of 2006. The verdict on the Scheme and directions/ guidelines to the CMDA, Chennai

Corporation, Commissioner of Police & other Agencies as well as to the Monitoring Committee on the further course of action to be taken have been given in Para 32 of the Hon'ble High Court's order dated 23.8.2006. The Action Taken Report was filed before the High Court in August 2007. Such status reports on action taken are regularly placed before the Monitoring Committee. The report was filed before the Monitoring Committee in its 42nd meeting held on 18.11.2011, 45th Monitoring Committee meeting held on 21.08.2012 and in the 47th meeting held on 16.11.2012. Recently the Hon'ble High Court in its order dt. 07.10.2014 in the writ petition No. 26339/2014 filed by Thiru.M.G.Devasagayam, Non-Official Member of the Monitoring Committee called for a report from the Monitoring Committee of a summary of what has happened till now in pursuance to the directions passed on 23.08.2006, what steps have been taken to stem the problem of unauthorized construction thereafter and what steps have been taken now, after passing of this order.

2. The summary of the report is presented below on the action points stipulated in the para 32 (Items i to xv) in the Hon'ble High Court order dt.23.08.2006.

Para 32 (i) The amendments to Sec.113-A of the Tamil Nadu Town and Country Planning Act, 1971 by amending Acts 31 of 2000, 17 of 2001 and 7 of 2002 and the consequential amendments to the Application, Assessment and Collection of Regularization Fee (Chennai Metropolitan Area) Rules, 1999 as far as applicable to the constructions made after 28.2.1999 are hereby declared ultra vires Articles 14 and 21 of the Constitution. All orders for Regularization of such buildings (constructed after 28.2.99) passed pursuant to the amending provisions stand quashed.

3. The amendments to Sec.113-A of the Tamil Nadu Town and Country Planning Act, 1971 by amending Acts 31 of 2000, 17 of 2001 and 7 of 2002 and the consequential amendments to the Application, Assessment and Collection of Regularization\ Fee (Chennai Metropolitan

Area) Rules, 1999 as far as applicable to the constructions made after 28.2.1999 were declared ultra vires Articles 14 and 21 of the Constitution, by the Hon'ble High Court. Further the Hon'ble High Court ordered that all orders for such buildings (constructed after 28.2.99) passed pursuant to the amending provisions stand quashed. On compliance of the High Court orders the Regularisation Applications received under 1999, 2000, 2001 & 2002 have been examined with the cut-off date of completion as 28.02.1999. Also the Reg. rates and fees of 1999 scheme is adopted for scrutiny of all Reg. applications. Further, the Monitoring Committee in its 3rd meeting held on 10.01.2007 recommended reopening of all the cases where the approvals had been given under the extended schemes and examining them afresh with reference to the norms of 1999 Scheme. Further action on these cases is being pursued accordingly.

4. The number of applications received under various Schemes are as follows:

Regularisation Schemes	No. of Applications Received
1999	5,458
2000	11,473
2001	4,363
2002	11,300
Total	32,594

5. Out of 32,594 applications, 7,450 applications pertaining to ordinary buildings and plot sub-divisions were forwarded to Local Bodies for processing and disposal. In addition, 32,935 applications have been received by Local Bodies directly making a total of 40,385. Thus, under various Regularization Schemes, 65,529 applications have been received.

Number of applications with CMDA (32594 – 7,450 = 25,144)	25,144
Number of applications with Local Bodies (32,935 + 7,450 = 40,385)	40,385
Total	65,529

6. While most of the applications dealt by Local Bodies pertain to regularisation of ordinary residential buildings, the number of applications received for regularisation of multi-storeyed and special buildings of Commercial and Residential nature under various Regularization schemes in CMDA were 3101 and 15287 respectively. The remaining applications are related to Industrial and institutional category.

7. In the pursuant of the High Court order, a public notice was issued on 02.12.2006 in the newspapers conveying the High Court orders dated 23.08.2006 with an advice to submit evidence for existence of buildings prior to 28.02.1999 by giving 30 days time. The Regularisation application for which no response has been received was rejected. The Monitoring Committee in its 17th meeting held on 27.07.2007 advised CMDA to give individual opportunity to all applicants by giving two weeks time to submit evidences to prove that the building had been completed before 28.02.1999. Accordingly, CMDA have sent 3101 individual opportunity letters to the applicants of commercial and mixed commercial Special and Multi-storeyed Buildings on priority basis followed by opportunity letters to the applicants in the category of Special and Multi-storeyed Buildings of Residential, Industrial and Institutional category. So far, evidence of completion of building prior to 28.02.1999 has been received in case of 1595 Regularisation applications, in the category of Special and Multi-storeyed Building of Commercial and Mixed Commercial nature and processed. Evidence in respect of 179 Regularisation applications has been accepted by the Monitoring Committee while for 1416 applications evidence produced

was rejected. Scrutiny of applications is under progress for the remaining applications.

Constitution of the Monitoring Committee

Para32 (ii) In pursuance of the High Court order, the Government of Tamil Nadu notified the constitution of the Monitoring Committee vide G.O.Ms.No.325, Housing & Urban Development Department, dated 30.11.2006 consists of the following members and subsequently issued Government order providing supporting staff from CMDA to the Monitoring Committee.

- a) *The Vice Chairman, CMDA;*
- b) *The Commissioner, Corporation of Chennai;*
- c) *The Managing Director, Chennai Metropolitan Water Supply and Sewerage Board;*
- d) *The Chairman, Tamil Nadu Electricity Board;*
- e) *The District Collector, Chennai;*
- f) *The Director of Fire Services;*
- g) *Mr.Louis Menezes (former Commissioner, Corporation of Chennai);*
- h) *Mr.M.G.Devasahayam (IAS retd.) (Former Secretary, Housing and Urban Development);*
- i) *P.T.Krishnan, (Architect);*
- j) *Prof.Suresh Kuppuswamy, (School of Architecture and Planning, Anna University);*
- k) *Durganand Balsaver (Architect and Urban Planner);*
and
- l) *Dr.A.Srivathsan (Architect and Urban Planner).*

8. The first meeting of the Monitoring Committee was held on 06.12.06 and so far 52 meetings have been conducted. The last Monitoring Committee Meeting (52nd meeting) was held on 04.02.2015. The Monitoring Committee also constituted Sub-Committees at different points of time during the course of its functioning for specific purposes which held several meetings separately. The Sub-committees have been constituted to look into amendment to Development Regulations, Less Stringent Measures on Residential Buildings, issue of Completion Certificate and action on erring builders etc.,

9. Over a period of time, Thiru. P.T. Krishnan, Architect, Thiru Louis Menezes, I.A.S. (Retd.), and Dr. A. Srivatsan (Architect and Urban Planner), the Non-Official Members, have resigned from the Monitoring Committee because of their personal commitments.

Para 32 (iii) The Monitoring Committee shall be provided with sufficient staff and infrastructure and all files pertaining to illegal constructions to be placed before it.

10. The Government in G.O.(Ms) No. 325, dated 30.11.2006 have constituted the Monitoring Committee with members as stipulated in the High Court order comprising of six official members and six non official members. The Monitoring Committee, in its first meeting held on 06.12.2006 decided that Vice-Chairman, CMDA will be the Convener of the meeting. CMDA initially utilized the services of the available staff by internal diversion from other Divisions for providing staff and infrastructure for the functioning of the Monitoring Committee. Subsequently, on the specific request from CMDA, the Government, vide G.O.(Ms) No.8, dated 11.01.2007 accorded sanction for creation of 57 Technical and Ministerial posts as a special case to look after all the works relating to Regulation and to help the Monitoring Committee for a period of one year with the condition that i) the expenditure in this regard shall be borne by the CMDA and ii) these posts should be set off against the retirement vacancies within a year.

11. The staff continues to assist the Monitoring Committee and ensure that depending upon the nature of works assigned by the Monitoring Committee, all the works are attended with the available existing staff and officials drawn from other divisions of CMDA. The required files are placed before the Monitoring Committee in compliance with decisions and the guidelines issued by the Monitoring Committee from time to time in its various meetings.

Para32 (iv) The Committee shall first take up the multi-storeyed commercial complexes for consideration. This should cover all buildings, which are more than four floors in height. Where the construction of entire building is illegal, the building has to be demolished. Where an extra floor has been put up illegally, the same should be demolished. Necessary modifications / demolitions must be done for satisfying the norms for fire safety and car parking facilities within the building premises.

12. The Monitoring Committee in compliance of Hon'ble High Court Order in item-32 (iv) instructed that all MSB applications of commercial and mixed-commercial should be taken in the first instance for disposal. Accordingly, 1219 Commercial and Mixed Commercial Multi-Storeyed Buildings have been taken up for scrutiny. Opportunity letters have been sent to all the applicants calling for evidences of having completed the buildings prior to 28.2.1999. Out of 1219 MSB mixed-commercial and commercial buildings, only 127 applicants have furnished credible evidences of having completed the building prior to 28.2.1999 which have been accepted by the Monitoring Committee. The Monitoring Committee has rejected 502 applications for non production of evidences /not furnished credible evidence of having completed the buildings prior to 28.2.1999. Further processing of the balance 590 applications is under progress.

13. In pursuance of the rejection of applications, enforcement action has been initiated at different points of time. All applications of regularisation of buildings whose regularisation request was rejected were found to be occupied. Under the provisions of Town and Country Planning Act, 1971, De-occupation notices have to be served to the individual owners to take follow up enforcement action on the occupied buildings. Based on the direction and guidelines of the Monitoring Committee, enforcement action has been initiated for the regularisation rejected cases and is pending at various stages including de-occupation of the buildings. The Government came out with Ordinance 1 of 2007, dated 27.7.2007 notifying deferment of coercive enforcement action on the unauthorised building/development put up prior to 01.07.2007 by way of moratorium and subsequently extended the provision of these ordinances by issuing fresh ordinances extending protection to the unauthorised building put up prior to 01.07.2007 on yearly basis. In this regard consumer action group has filed a writ petition in the Hon'ble Court against the ordinance. Due to the status quo ordered by the Hon'ble Supreme Court with reference to the provisions of the ordinances, further follow up enforcement action could not be proceeded with till 15.03.2011, as the Status quo ordered by the Hon'ble Supreme Court was in force till 11.03.2011.

14. The Monitoring Committee in various meetings expressed serious concern and perceived promulgation of these ordinance and associated court orders thereon as constraint in the course of implementation of the High Court order dated 23.08.2006. The Committee had a further apprehension that the protection from stringent enforcement action for the unauthorised buildings constructed between 28.02.1999 i.e. the cut off date prescribed in the High Court order dated 23.08.2006 and 01.07.2007, prescribed in the Ordinances in effect clashes with the mandate of the Monitoring Committee as the Monitoring Committee had been functioning with three guiding principles viz.,

1. Applications received in all the Schemes i.e. 1999, 2000, 2001 and 2002 can be considered provided the unauthorised construction is completed prior to 28.02.1999.
2. Regularisation can be considered only as per the conditions stipulated in the Regularisation Rules, 1999.
3. Unauthorised construction completed after 28.02.1999 is not regularisable and to be subjected to enforcement action.

15. The stringent enforcement action on the regularisation rejected buildings completed prior to 01.07.2007 have to be deferred in view of the status quo order granted by the Hon'ble Supreme Court dated 14.12.2007 in the Special Leave Petition filed by the Government. The enforcement action on the regularisation rejected applications could be revived only in July 2011, as the order of the Hon'ble Supreme Court dated 11.03.2011 vacating the status quo was placed before the Monitoring Committee in its 40th meeting held on 18.07.2011.

16. The list of Multi-Storeyed Building rejected cases have been forwarded to the Director, Fire and Rescue Services and Corporation of Chennai for taking necessary action against the buildings for non provision of fire safety measures under their Act.

Para32 (v) *Special building should be categorized as those with actual construction of ground plus three floors. In the case of commercial special buildings, the same measures that apply to multi-storeyed buildings as above should be followed. In the case of residential multi-storeyed buildings and special buildings, the Monitoring Committee may suggest less stringent measures, bearing in mind the impact of retaining the building.*

17. In compliance of the High Court Orders, the Monitoring Committee instructed to process the special buildings of commercial and mixed commercial in nature. Accordingly, opportunity letters have been sent to all the applicants to furnish credible evidences of having completed the buildings prior to 28.2.1999. Wherever the applicant furnishes credible evidences, the same has been verified and placed before the Monitoring Committee for suitable decision. Out of 1882 Special buildings of commercial nature 966 Regularisation applications have been processed and Monitoring Committee has accepted the evidences for 52 Reg. applications. Regularisation have been rejected for 914 applications and decisions have to be taken for the remaining 916 applications under this category.

18. In case of residential, MSB and Special Buildings, the Monitoring Committee has suggested less stringent measures. In compliance of the Hon'ble High Court Orders, a Sub-committee has been constituted to recommend the ways and means for less stringent measures on Multi-storeyed and Special buildings/ Group developments of residential use. Suggestions of the Sub-committee has been placed before the Authority and the Authority in its Resolution No.182/2008, resolved to approve the recommendations of the Sub-Committee and the proposal has been forwarded to the Government for approval. Thereafter, the Government have amended Town & Country Planning Act 1971 and introduced Section 113-C for exemption of buildings constructed prior to 01.07.2007 for which Rules & Regulations are under discussion by the Hon'ble Justice Thiru Rajeswaran Committee.

Para32 (vi) The Professional builders of illegal multi-storeyed and special buildings should be identified for imposition of heavy penalties. This amount should be used to compensate the unwary purchasers and to take remedial measures for alleviating the harm caused to the society.

19. It was brought to the notice of the Monitoring Committee that the Town & Country Planning Act, 1971 require amendments to make provisions for curtailing the developments in the initial stage itself. The

Monitoring Committee in its 2nd meeting held on 21.12.2006 was briefed about the limited information available in the files relating to issue of Planning Permission for identifying the professional builders of illegal Multi-storeyed and Special Buildings for imposition of heavy penalties. While applying for the planning permission, the builder do not apply in his/her name. Considering this situation, the Committee suggested to fix responsibility on the owner/applicant wherever builders is not available and levy penalty.

20. In most of the Planning Permission Applications, the land owner applies for Planning Permission and the builder is not in the picture and in some cases he holds only General Power of Attorney. Undivided land is transferred from owner to buyer directly without bringing the builders into picture. In most cases, Builders/General Power of Attorney holders execute agreements with land owners for construction only. These records are not available in the applications submitted to CMDA. Hence, identifying the erring builders on record for imposition of penalties is a difficult proposition.

21. The Monitoring Committee in its 13th meeting held on 22.06.2007 advised that for identifying the erring builders of the Commercial, Special and Multi-storeyed Buildings, those who have applied under Regularization Scheme may be taken up first for analysis. Even if the building is considered 'under Regularization Scheme', the Builder/General Power of Attorney (GPA) can be considered for penalty as an erring builder. This can be followed up by taking the list of erring builders who have not applied for Regularization.

22. The Monitoring Committee in its meeting held on 20.6.2008, constituted a Sub-Committee to decide on the imposition of heavy penalties against erring builders. The Sub-Committee discussed this issue in the meeting held on 25.9.2008 and recommended the following measures of penal action on the erring builders.

“In respect of commercial multi-storeyed buildings and Special Builders, the unauthorized portions should be demolished, in line with the High Court order. In addition, the erring builders who have put up such unauthorised developments should be penalized. The penalty may be on the basis of Guideline Value method as suggested by the Sub-Committee of the Authority, while dealing with less stringent measures based on the recommendations of the Monitoring Committee”

23. The decision of the Sub-Committee along with minutes was placed before the Monitoring Committee. The Monitoring Committee accepted the recommendations of the Sub-Committee and decided to forward the same to Government after placing before the Authority.

The Authority in the meeting held on 15.11.2011 resolved as follows:

“The Authority remitted back the subject to the Sub-Committee with a request to come up with a detailed recommendations suggesting the methodology for identification of erring builders, details on methods of assessment of penalties, rules to be framed etc. so that the same can be forwarded to Government for orders”

24. As decided by the Authority, the subject was discussed in the Sub-committee meeting held on 18.9.2012 and the following decisions have been taken and complied with

- (i) The approval details of planning permission issued by CMDA and approved plans are hosted in CMDA's web site.

- (ii) The Security Deposit for special buildings/Group developments has been enhanced from Rs.50/- per sq.m. to Rs.200/- per sq.m. and from Rs.100/- per sq.m. to Rs.400/- for Multi Storeyed Buildings by suitably amending the Development Regulations for CMA 2026.
- (iii) The TNEB and CMWSSB insist Completion certificate issued by CMDA for extending electricity, water supply and sewer connections to all Special Buildings / Group Developments and Multi-storeyed Buildings.
- (iv) While admitting planning permission application in CMDA, the applicant is insisted to mention the name of the builder apart from the GPA and the owner, failing which the application is not admitted.
- (v) The habitual violators have to be identified and Security Deposit should be collected as multiple of the security deposit normally collectable while issuing planning permission from such habitual violators. There is no provision in the Town and Country Planning Act to collect multiple of the security deposit normally collectable while issuing planning permission from the habitual violators and it needs Act amendment.
- (vi) Presently there is no provision in the Act and rules for registration of builders in CMDA. The provision for Registration of Builders has been included in the Draft Tamil Nadu Common Building Rules (TNCBR), 2014, that is submitted to the Government in Dec.2012 which is under consideration of the Government.

(vii) Issue of denial of planning permission by CMDA for the habitual violators may also be examined as per the Act. Planning Permission cannot be denied on the habitual violators. If the applicant furnishes ownership documents along with revenue patta for the proposed development, planning permission is issuable subject to satisfaction of Development Regulations.

Para 32 (vii) The Committee shall identify the officers at the CMDA and the Corporation, who are responsible for the failure to enforce the planning laws and make appropriate recommendation for prosecution and / or disciplinary action.

25. A Base Paper on the functioning of the Enforcement Cell of CMDA was placed before the Committee. It was explained by CMDA that local bodies have powers to take action against all cases of deviated/unauthorized buildings under their respective Act, viz., Chennai City Municipal Corporation Act, Municipalities Act and Tamil Nadu Panchayats Act. In addition, it was also informed that since 1979, CMDA has delegated powers to the Corporation of Chennai and other local bodies within the Chennai Metropolitan Area (CMA) under the Town and Country Planning Act 1971 to take enforcement action on the unauthorised Building as CMDA had no enforcement machinery till 1986. During 1986, Enforcement Cell was created in CMDA also for the purpose of monitoring planning permission issued covering Security Deposit collected during approval.

26. The Monitoring Committee directed CMDA and Chennai Corporation to take up a few serious cases already brought to notice and fix responsibilities on the basis of records and action/inaction of individual officials charged with responsibility of enforcement as per standing orders.

27. It has been brought to the notice of the Monitoring Committee by CMDA that CMDA issues Planning permissions for all MSBs and Special Buildings, while for the other buildings; Planning Permissions are issued by the local bodies on the delegated powers. However, in all the cases the Building permits are issued only by the Local Bodies, under the provision of their respective Local Bodies Act.

28. As suggested by the Monitoring Committee, a detailed study of 13 cases was made by CMDA and placed before the Monitoring Committee at its 15th meeting held on 06.07.07. After discussion the Monitoring Committee decided that considerable clarity would be needed on what exactly is the procedure followed in CMDA, in the Chennai Corporation, in the Municipalities and in the Panchayats/Town Panchayats within CMA with regard to monitoring of building construction, detecting violations, taking action on violations, early prevention of violations, deterrent action, fixing of responsibility on officials for lapses. In the subsequent meeting CMDA put up 3 case studies of the Monitoring Committee for perusal. The Monitoring Committee was of the view that from these cases, it becomes clear that there are several systemic hurdles in the way of taking timely enforcement action.

29. The Monitoring Committee in its 19th meeting held on 8.8.2007 also went through the three case studies relating to CMDA in detail and noted that it was extremely difficult to fix any specific responsibility on any official for the unauthorised construction in these cases as the builder has resorted to all the loopholes available and used the various avenues of legal relief including the courts to their advantage. Further, as per the decision of the Monitoring Committee, 28 Enforcement Cell files wherein Demolition notices were issued based on rejection of Regularization applications, were taken up for examination by the two Chief Planners to make suitable recommendation, taking into account the guidelines prevailed during that period. Based on the recommendations, 4

officials in CMDA were identified for their lapse and charges were framed against them on 08.09.2007 and 22.01.2008. Further, Departmental enquiry was conducted against the officials and the enquiry officer submitted the report stating that the charges levelled against them were not held proved. The report of the enquiry officer was perused by the Appointing Authority/Disciplinary Authority and fully agreed with the enquiry officers findings and further action on the Departmental proceedings against the 4 officials was dropped on 06.04.2011. With regard to the officials responsible apart from CMDA and Chennai Corporation, the Monitoring Committee invited and discussed with the Commissioner, Municipal Administration, Director, Town Panchayats and the Director of Rural Development.

Para 32 (viii) The CMDA and the Corporation are directed to take action against illegal multi-storeyed and special buildings, as per the recommendation of the Monitoring Committee. The Commissioner of Police, Chennai directed to provide necessary police protection for taking action against illegal constructions.

30. Since 23.08.2006, CMDA had carried out demolition of five Buildings based on the previous court orders. After following the procedures, demolition was fixed up for four buildings coming under the Regularisation Scheme but could not be carried out as the applicants obtained court injunctions just before the demolition could be taken up. Similarly, Chennai Corporation carried out demolition in 31 illegal constructions upto September 2007, outside the scope of Regularisation applications. Based on the recommendations of the Monitoring Committee, CMDA issued Demolition notices for 48 Commercial Multi-Storeyed Buildings as of September 2007 based on the rejection of Regularisation applications and similar demolition notices on different batch cases were issued subsequently viz., 62 demolition notices in the

cases of rejected/refused applications and 33 Commercial Special Buildings. However, many applicants obtained injunctions/stay order from the court against demolition notice and rejection of Regularisation applications.

31. Taking these issues into due consideration, CMDA and Chennai Corporation proceeded with further steps following the legal procedure on the enforcement action on the violated buildings. Another issue encountered in the process is for taking up demolition after expiry of the statutory period given in the demolition notices, building shall be vacated. As most of the premises were found occupied and handing over of these building in vacant possession for taking up demolition is found to be difficult proposition. Considering this, the Monitoring Committee have suggested co-ordinated action by all Departments viz., CMDA, Corporation of Chennai, Tamil Nadu Electricity Board (TNEB), Chennai Metro Water Supply and Sewerage Board (CMWSSB), Director of Fire and Rescue Services (DF & RS), Police Department. Accordingly, water supply and sewerage connections were disconnected for few buildings. After disconnection for few buildings, the connections were restored as per the court directions obtained by the owners.

32. Pursuant to the directions of this Hon'ble Court passed in the year 2006 in setting aside the amendments to Section 113-A, CMDA started scrutinizing the Regularization applications of Multi-storeyed Buildings and Special Buildings of Commercial category on priority basis applying the criteria stipulated by the High Court order. Further on the guidance of the Monitoring Committee, CMDA also start sending letters and notices to individual applicants by calling upon them to produce credible evidences to prove the existence of the building as covered in the Regularisation application prior to 28.02.1999 apart from causing paper publications. On the guidance and in compliance with the decision of the Monitoring Committee, CMDA and Corporation of Chennai have been pursuing preparatory action for carrying out demolition in the

Regularization rejected buildings like identification and selection of suitable agency for carrying out demolition, finalizing the ways and means of getting the building vacated as most of the buildings were found occupied. In the interregnum, the Government came out with ordinance 1 of 2007 dated 27.7.2007 deferring the coercive action on the buildings and put up prior to 1st July 2007 by way of moratorium and to review the provisions of Town and Country Planning Act.

Para 3 of the Ordinance stated as follows:

(1) Notwithstanding anything contained in any relevant Law or any Rules, Regulations or By-Laws made thereunder, the Government shall within a period of one year from the date of commencement of this Ordinance, take all possible measures, with due regard to the environment, to finalize the Norms, Policy Guidelines and feasible strategies to deal with the problems of unauthorized developments with regard to the under mentioned categories, namely :-

- (a) Land use not conforming to the Master Plan, detailed development plans or any planning permission;
- (b) Construction in deviation from or beyond planning permission or building permit;
- (c) Development without any planning permission or building permit; and
- (d) Unauthorized occupation by the hawkers and street vendors, in the public street and by the people in slum area so that the development of Chennai Metropolitan Planning Area take place in a sustainable and planned manner.

(2) Subject to the Provisions contained in Sub-Section(1) and notwithstanding any judgement, decree or order of any Court, status quo as on the date of the commencement of this

Ordinance shall be maintained in respect of the categories of unauthorized development mentioned in Sub-Section(1).

33. As a result of this Ordinance, CMDA, Chennai Corporation and other Local Bodies could not proceed with pursuing stringent enforcement action on the buildings put up before 01.07.2007 notwithstanding completion of the initial procedure like rejection of Regularisation applications, serving of demolition notices, on the Regularisation rejected cases towards implementation of the court order dated 23.08.2006.

34. The said ordinance was subsequently enacted as an Act and the same was once again challenged by the Citizen Consumer Action Group in W.P.25913/2007. This Hon'ble Court quashed the ordinance as well as special Act on 13.11.2007 and against which the Government preferred SLP before the Hon'ble Supreme Court. The Hon'ble Supreme Court granted status quo vide order dated 14.12.2007 stating that the status quo shall be maintained until further orders and the petitioner shall not pass any order of Regularization in the meantime, pending disposal of SLP after ordering notice in the SLP to the respondents concerned.

35. In view of the status quo order of the Hon'ble Supreme court order, Chennai Metropolitan Development Authority and Chennai Corporation during the interregnum between July 2007 and March 2011 in general could pursue enforcement action to carry out locking and sealing of unauthorized buildings in the light of new provisions inserted in the Town and Country Planning Act in the year 2008, based on the interim recommendations of Justice Mohan Committee; on the unauthorized buildings put up after 01.07.2007, not on the Regularisation rejected cases. All along this period, the Monitoring Committee expressed serious concern at different points of time on this situation as Ordinances protecting the unauthorized buildings put up prior to 01.07.2007 from stringent enforcement action was perceived as interfering with the cut off

date prescribed in the court order dated 23.08.2006 shifting the goal post from 28.02.1999 to 01.07.2007 .

36. In the year 2011, while the matter came up before the Hon'ble Apex Court the Hon'ble Supreme Court in SLP No.23098/2007 vacated the status quo order granted on 14.12.2007, by its order dated 15.03.2011 and granted leave against the orders of this Hon'ble Court because the Committee headed by Retired Justice Thiru S. Mohan submitted the report to the Government during July 2010. The order of the Supreme Court vacating the status quo was placed before the Monitoring Committee in its 40th meeting held on 18.7.2011.

37. Based on the Hon'ble Supreme Court Order dated 15.03.2011 withdrawing the earlier status quo order, it was decided to revive the enforcement action on the Regularisation rejected Commercial Multi-Storeyed and Special Buildings from the point that was left out in July 2007, considering the provision of the Ordinance. Considering the huge task involved in this venture, the Monitoring Committee desired to pursue the follow up enforcement action be taken up on 48 MSB (Commercial) for which the demolition notices had already been served prior to 27.7.2007 on the direction of the Monitoring Committee, to start with. After a detailed deliberations on how to go about on these cases, wherein the demolition notices were issued four years back, it was decided that fresh notice requiring discontinuation of use of the building, locking and sealing and demolition of unauthorized portions giving 30 days time, might be given to all these buildings after causing due inspection and after assessing the latest status of the profile of the buildings.

38. It was further decided that these notices might be issued as a Statutory Notice, giving an opportunity to the promoter and occupiers of these unauthorized buildings to carry out the rectifications by themselves, failing which to proceed with locking and sealing as part of effort towards the removal of unauthorized buildings while allowing the developers to

exercise the option of obtaining approval under Section 49 and exercising the right of appeal to the Government under Section 79 of Town and Country Planning Act, in case of refusal of their planning permission applications, in case the owners chose to exercise such option.

39. In the mid 2011, the Hon'ble High Court while hearing the pending writ petitions No.20618 of 2010 and W.P.No.3885 of 2010 filed by Citizen Consumer and Civic Action Group challenging the ordinance 1 of 2010 dated 27.07.2010 and another writ petition 23936 of 2010 filed by one Thiru.Solemon against unauthorized Constructions put up in Choolai observed that the CMDA and Corporation shall take up immediate action on the lines suggested by the Monitoring Committee and filed an action taken report with regard to demolition of unauthorized constructions particularly with regard to T.Nagar area within two months by order dated 12.08.2011. Thereafter, as per the directions of the Hon'ble Court, the CMDA as well as Corporation of Chennai have taken action on a number of Commercial buildings in T.Nagar area by issuing locking and sealing notice and calling upon them to discontinue the use and occupation as contemplated under section 56 (2) of the Town and Country planning Act. Thereafter, C.M.D.A. as well as Corporation of Chennai have locked and sealed 25 Commercial buildings in the T.Nagar area mostly in Usman Road and Ranganathan Street on 31.10.2011.

40. Aggrieved against the said directions of the Hon'ble Division Bench of this Hon'ble Court dated 01.11.2011, the Ranganathan Street Merchants Association of T.Nagar filed SLP before the Hon'ble Supreme Court by seeking for leave to file SLP with a prayer for interim stay / status quo and for directions to de-seal the buildings that were locked by C.M.D.A. and Corporation of Chennai. The Hon'ble Supreme Court by order dated 11.11.2011 set aside the directions of this Hon'ble Court passed in W.P.No.20618, 23936 and 3885 of 2010 and granted interim orders against C.M.D.A and Corporation from initiating any further action and with regard to the de-seal relief, they directed the members of

Ranganathan Street Merchants Association and other parties concerned to approach the Hon'ble High court for further directions by impleading themselves. Pursuant to the said directions, the Ranganathan Street Merchants Association as well as Usman Road Traders Association impleaded themselves and prayed for interim order from initiating any further action and for de-sealing of the shops. The Hon'ble First Bench of this Hon'ble Court after hearing the parties issued directions to the Monitoring committee to decide on issue of de-sealing. Again the said direction was challenged by the traders of T.Nagar in filing two SLPs and the Hon'ble Supreme Court set aside the orders of Hon'ble High Court so far as the powers of Monitoring Committee with regard to the de-sealing issue is concerned and further directed the High court to decide the application on merits.

41. Pursuant to the directions of the Hon'ble Supreme Court, the C.M.D.A. and Corporation of Chennai have de-sealed the buildings on 10.01.2012. Thereafter, the writ petitions filed by the Consumer Action Group was listed before the Hon'ble high Court for further hearing and the Hon'ble Court periodically extended the interim directions and passed another order on 17.02.2012. In the said order, their Lordships have observed about the Government's stand in accepting the recommendations of the Committee headed by Retired Justice S.Mohan in reviewing the provisions of Tamil Nadu Town and Country Planning Act and the guidelines submitted by them. The Committee have proposed guidelines to amend the section 113 by inserting Section 113-C in the Town and Country planning Act by which the building completed before July 2007 is eligible to be exempted from the purview of Development Rules subject to guidelines and on payment of exemption fees. Recording such statements of the Government, the Hon'ble Court extended the interim stay orders until further orders. In the meanwhile, the Act has been amended and section 113-C was introduced and the Guidelines and Rules in G.O.Ms.No.234 and 235 respectively were notified with regard to

exemption under section 113-C for the buildings put up prior to July 2007.

42. Further, the validity of the section 113-C as well as G.O.Ms.No.234 and 235 were challenged by the Citizen, Civic Consumer Group and Traffic Thiru.K.R.Ramaswamy in W.P.No1664/2013, 16785 to 16787 of 2013. The Hon'ble Division Bench of Madras High Court pursuant to the directions of the Hon'ble Supreme Court while dismissing the contempt application moved by Thiru.K.R.Ramaswamy in contemplating action against the officials of Corporation of Chennai and others with regard to de-seal of the building, upheld the validity of section 113-C and G.Os. as filed in W.P.No1664/2013, 16785 to 16787 of 2013 . The Hon'ble High Court upheld the powers of Government so far as granting exemptions by upholding Section 113-C but set aside the G.O.Ms.Nos.234 and 235 as the same is ultra virus with regard to certain aspects and simultaneously directed the Government to appoint a fresh committee or with the same committee and frame fresh guidelines and rules on 10.02.2014 and the Judgement is reported in 2014 (2) CTC page 225. On account of section 113-C of the Town and Country Planning Act and pursuant to the directions of the Hon'ble Court extended the interim orders until further orders with regard to the buildings put up in T.Nagar area particularly Usman Road and Ranganathan Street. Hence, CMDA and Chennai Corporation are not able to proceed with further enforcement action, on these cases.

43. In compliance of the Court order, the Government in G.O.Ms.NO.161, Housing & Urban Development Department, dated 8.11.2014 constituted a Committee with the following composition:

Sl. No.	Designation & Department	Members
1.	Justice Thiru.S.Rajeshwaran, High Court Judge (Retd.)	Chairman
2.	The Commissioner of Town and Country Planning Chennai-600 002.	Member / Convener
3.	The Member-Secretary Chennai Metropolitan Development Authority Chennai-600 008	Member
4.	Head of the Department of the School of Architecture & Planning, Anna University Chennai – 600 025	Member
5.	The Chief Planner Chennai Metropolitan Development Authority Chennai – 600 008	Member

44. As per the G.O., the Committee shall frame appropriate guidelines and Rules for effective implementation of Section 113-C of T&CP Act, 1971. The Committee shall submit its final report within a period of three months. The Committee is meeting periodically every week.

45. There is another Writ Petition in W.P.No.23083 of 2014 filed by one Thiru Kannan Balachandran against (1) State of T.N. rep. by its Secretary to Govt., H&UD Dept., (2) State of T.N. rep. by its Secretary to Govt. Home Dept., (Fire & Rescue Services), (3) Corporation of Chennai rep. by its Commissioner, (4) CMDA rep. by its Member-Secretary and 11 others. When this case came up for hearing on 18.10.2014, the

Hon'ble First Division Bench of Madras High Court passed the Orders as follows:

Insofar as the private respondents are concerned, learned Senior Counsel urged that new guidelines not having come into force, the question of regularisation under the guidelines cannot be examined. It is however not disputed that the protection is available only upto 31.07.2014. The private respondents may file affidavit stating that there is no further construction beyond the cut-off date. Next hearing of the case is posted on 05.12.2014. Thereafter the case is again posted to 05.03.2015.

46. The position arise on this court order was clarified in the Monitoring Committee during its 50th meeting. On understanding the ruling of the Hon'ble High Court confirming the availability of protection for the unauthorized buildings completed prior to 21.07.2007 from the enforcement action, in view of the Section 113-C pending formulation of Rules and Guidelines; the Monitoring Committee raised a key issue on the relevance of the functioning of the Monitoring Committee implementing the mandate of High Court order dated 23.08.2006. Because, the mandate given to the Monitoring Committee in the High Court order 23.08.2006 recognise 28.02.99 as cut off date for regularizing the unauthorized buildings with further stipulation that the unauthorized Commercial buildings constructed after 28.02.1999 should be subjected to stringent enforcement measures. Whereas Section 113-C give protection cover to the unauthorized buildings constructed upto 01.07.2007 from taking stringent enforcement action. The Monitoring Committee perceive this as contradiction to the stipulations made in the court order dated 23.08.2006 and it amount to shifting the goal post from 28.02.1999 to 01.07.2007.

47. In this situation, there is a dilemma for the Monitoring Committee on how to go about on the Regularisation application rejected based on absence of credible evidence to prove that the construction was completed prior to 28.02.1999, as another protection from stringent enforcement measures is available in the form of provision in another

section i.e. provisions in Section 113-C. It implies that all the Regularisation applicants may have to be given an opportunity to submit a Regularisation applications under Section 113-C – may be restricting specific time frame. Only after examining the eligibility and clearance of regularization under such scheme; enforcement can be initiated on all the cases by way of natural justice. The Monitoring Committee likes to submit a prayer before the Hon'ble High Court on whether the Monitoring Committee is expected to continue its functioning on checking and deviating the eligibility of cases for protection under section 113-A as per the stipulations in the court order dated 23.08.2006 while there is Section 113-C providing protection from stringent enforcement action for the buildings completed prior to 01.07.2007 as this provision is upheld by the Hon'ble High Court. The Monitoring Committee would like to seek specific clarification on what to do on pursuing enforcement action on the Regularisation rejected cases, while protection claim said to be available for the unauthorized buildings completed upto July, 2007 as per the provisions of Section 113-C.

48. In the prevailing situation CMDA and Chennai Corporation are left with option restricting the enforcement action on the unauthorized buildings constructed after 01.07.2007 and subjecting such buildings to the provisions of locking and sealing, prohibiting use of such unauthorized buildings rather than demolition of such buildings. Since, the insertion of provisions for locking and sealing of unauthorized buildings in the Town and Country Planning Act, in 2008, CMDA have issued 731 locking and sealing notices and carried out locking and sealing on 104 buildings – predominantly Commercial buildings. Chennai Corporation have issued 726 locking and sealing notices and carried out locking and sealing on 179 buildings.

49. Thus, CMDA, Chennai Corporation and other Local Bodies of now, pursue enforcement action following the procedure laid out in the Act, on recent cases of unauthorized/deviated buildings rather than the

legacy buildings. On several meetings, the Monitoring Committee had detailed discussion and deliberations on the adequacy of the existing enforcement system and mechanism in place to tackle the menace of unauthorized buildings. To enable better understanding, the Monitoring Committee was given a detailed briefing about the provisions in the Act, procedure, processes and course of enforcement action in the past from the initial action of issuing notice and upto reaching the finality in enforcement action. In this regard, a base paper on Enforcement action was presented before the Monitoring Committee. The Committee was also briefed about the procedure and processes being followed on carrying out locking and sealing of unauthorized buildings under the new provisions introduced in 2008 in the Town and Country Planning Act, 1971.

50. On studying the existing system, understanding the processes and the existing provisions in the legal framework, the Monitoring Committee expressed the following observations, views, opinion and suggestions towards improvement of the enforcement system and mechanism and for securing compliance of Rules in the Chennai Metropolitan Area.

51. The Monitoring Committee in its 24th meeting held on 12.10.2007 felt that prevention of violations, nipping them in the bud and enforcement action through demolition are three areas where CMDA as well as the Local bodies should pay greater attention. The Committee further recommended that CMDA shall develop a manual and impart professional training to the staff of Local Bodies in enforcement.

52. CMDA is basically a Planning Body and is not configured to perform the implementation/enforcement functions it has been charged with. Urban Local Bodies within Chennai Metropolitan Area lack technical/managerial expertise to monitor and enforce the building rules and regulations. Combination of these is the cause of the present condition. What is required is major governance reforms to reconfigure

and streamline the institutional mechanism and redefine the duties, responsibilities and functions of CMDA, Chennai Corporation and Urban Local Bodies in Chennai Metropolitan Area.

53. Establishing an independent enforcement mechanism for tackling the unauthorized or deviated construction would discourage unauthorized developments in future. The committee further suggested that enforcement on the fire safety norms shall be done by amending DF&RS Act, to provide for disconnecting power / water supply in Fire Safety non-complying buildings.

54. The Monitoring Committee decided that it requires a multi-pronged strategy apart from locking & sealing and demolition of the building. The prime point of action emerged was that the service providing agencies viz. TNEB & CMWSSB would not provide service connections to these buildings and would disconnect the service connections in case already provided. The Corporation of Chennai would initiate action to cancel trade license for the ongoing trade in these buildings and explore the possibilities of sealing unauthorized portions.

55. The present system and mechanism is highly inadequate and lacking thrust and clarity of role and responsibility of different agencies in pursuing the enforcement action. The Monitoring Committee recognized that the role of CMDA being the Planning and Development with the centralized Office for the entire Metropolitan Area with a few staff for enforcement related activities like issue of Completion Certificate, forfeiture of Security Deposit etc., without any hierarchy of administrative structure spread over the Metropolitan Area, CMDA cannot be the enforcement authority and its prime function is Planning and Development. The Local Bodies have to perform multiple civic functions without exclusive core staff for enforcement action at the field level, and also have shortcomings in institutional framework and mechanism. The Local Bodies too are not adequately equipped for

carrying out effective and focused enforcement action, on curbing the menace of unauthorized developments.

56. The Monitoring Committee recommends to the Government for creation of a separate and full-fledged exclusive enforcement Government Organization for CMA with mandate for pursuing focused enforcement action with adequate power, authority and manpower as a long term and sustainable measure. The Committee also recommends that such an Authority may be set up after detailed study of different models in place in different cities in India and abroad.

57. On ground, the regulatory authorities viz. CMDA, Corporation of Chennai and other Local Bodies find it difficult to take enforcement action effectively and curb the tendency of carrying out of unauthorized developments due to various reasons like shortage of manpower and lack of effective mechanism and procedures to detect the violations in time and pursue stringent enforcement action and lack of co-ordinated mechanism among Government Agencies like service providing agencies such as TNEB and CMWSSB.

58. The Monitoring Committee suggested the need for involving the key professionals in the development projects like Architects, Engineers and Licensed Surveyor as the key players in implementing the project as per approved plan and alerting the regulatory authorities in case of deviations and violations.

59. Considering the suggestions and concern of the Monitoring Committee CMDA and Chennai Corporation have initiated/taken different measures towards improvements of enforcement mechanism.

60. CMDA had set up exclusive divisions to deal with the issue of completion certificates which is an effective instrument in ensuring that larger developments in the form of Special Buildings and Multi-Storeyed Buildings are constructed in compliance with the approved plan. A

proposal requesting sanction of additional manpower to the tune of 600 officials for strengthening the enforcement machinery in CMDA has been submitted to the government which is under consideration of the Government. A comparative study has been carried out by sending individual professional team to different Cities in India to study the system of issuing planning permission and enforcement in place in these Cities. Based on the study reports of these teams, a proposal will be evolved including the involvement of professions like architects and engineers in ensuring that they are involved in carrying out the development strictly as per the approved plan and who are expected to function as eyes and ears to the regulatory authorities.

61. Considering the valuable suggestions of the Monitoring Committee, the Chennai Corporation have taken certain concrete measures described below to improve and tone up the enforcement mechanism:

- i) A dedicated separate Town Planning Section has been created at each of the three Regional Offices and approval section the approvals for the Planning Permission are issued.
- ii) Delegation of Powers has been issued to the Executive Engineer (TP-Enforcement) for identifying the unauthorized / deviated construction and issue stop work notice / notice calling for approved plan and also locking & sealing and demolition notice.
- iii) Powers have been delegated to the Regional Joint / Deputy Commissioner to lock & seal and demolition of the unauthorized / deviated constructions.
- iv) Assistant Engineer / Junior Engineers / Asst.Exe.Engineer / Exe.Engineer has been posted exclusively in each of the three Regional Offices to effectively look after the enforcement action.

- v) Construction of buildings is checked at the foundation level by the Asst. Engineer / Junior Engineer to identify the deviation if any and rectify the deviation at foundation stage itself.

62. The process of insisting completion certificates for the Ordinary buildings under Tamil Nadu Common Building Rules is under the active consideration of the Government. The insistence of the completion certificate for Special and Multi-Storeyed buildings found to be an effective instrument in checking the construction in deviation to the approved plan to a greater extent. Further, CMDA took a lead role in conducting extensive consultations with the Local Bodies and other agencies in evolving and framing Common Building Rules (CBR) and submitting the same to the Government in November 2014 for consideration and approval. It is under the examination of the Government. Once the CBR frame work is approved by the Government, a strong enforcement mechanism with provisions for obtaining completion certificate, structural stability certificate, occupancy certificate as mandatory requirement before put the building into use will be at place at the Local Bodies.

63. The Monitoring Committee is of the firm view that the key mandate of the High Court order dated 23.08.2006 is to take effective enforcement action on the massive unauthorized developments with rampant violations of the existing land and development regulations causing concern on the public safety, traffic congestion, strain on the infrastructure as well as to curb and stem such violations in the future towards achieving violation free building constructions and developments in the City in conformity with the rules and regulations in force.

64. While giving directions, guidelines and monitoring the stringent enforcement action by the regulatory authorities as per the law in force on the rejected cases of Regularization applications, the Monitoring Committee consistently express serious concern and insists the need to

take stringent enforcement action on the unauthorized commercial buildings with serious violations that have not been applied for under any Regularization Scheme also. Hence, the Committee underlined the need to bring out the magnitude and dimensions of the violations of buildings with reference to Development Control Regulations through carrying out survey in different areas of the city appears prima-facia as congested in order to set in motion the enforcement action in these areas. To start with, the Monitoring Committee suggested to conduct a survey of all Multi-Storied Buildings in the Chennai Metropolitan Area. The Monitoring Committee has also suggested to plot the Multi-Storied Buildings that were applied in the Regularisation Scheme in a map to ascertain the concentration of the unauthorized/ deviated Multi-Storeyed Buildings in Chennai Metropolitan Area.

65. In the Monitoring Committee meeting held on 13.04.2007 the Monitoring Committee was briefed about the survey carried out in T. Nagar area. After detailed deliberations on the field level problems in conducting the survey, the Monitoring Committee suggested that survey might be done at Usman Road and Ranganathan Streets in the first instance in the format already prescribed. Accordingly the survey was completed and placed before the Monitoring Committee in its 19th meeting held on 08.08.2007. On perusal of the survey report, the Monitoring Committee felt that the survey is quiet revealing with regard to the nature and extent of violations prevailing in the City.

66. The T. Nagar survey report was instrumental in identifying and pursuing follow up enforcement action which resulted in locking and sealing of a few unauthorised buildings in Usman Road, Ranganathan Street on 31.10.2011 as per the decision taken by the Monitoring Committee in its 40th meeting held on 15.7.2011 following the order of the Hon'ble Supreme Court vacating the status quo order granted on 14.12.2007 and extended thereafter on the ordinances preventing

pursuance of enforcement action on the buildings and developments completed prior to 01.07.2007.

67. The Monitoring Committee ordered carrying out of survey Report in other areas also viz., Arcot Road in Kodambakkam area, Lattice Bridge Road at Adayar and Tiruvanmiyur areas, 2nd Avenue in Anna Nagar and in Shanthi Colony in Anna Nagar. Accordingly, Chennai Corporation carried out surveys in those areas and placed the survey reports in T. Nagar Survey Report format before the Monitoring Committee and enforcement action is initiated on these violated buildings by CMDA and Chennai Corporation as per the guidelines of the Monitoring Committee. The details of survey conducted in various areas as suggested by Monitoring Committee is given below.

ACTION TAKEN BY CMDA ON THE SURVEY REPORTS

68. The Monitoring Committee in its various meetings have instructed Corporation of Chennai to conduct detailed survey of the Buildings abutting Arcot Road, Kodambakkam, 2nd Avenue, Anna Nagar, Shanthi Colony (4th Avenue), Anna Nagar Lattice Bridge Road, Adayar and Thiruvanmiyur.

69. The Corporation of Chennai have conducted the survey and submitted the reports before the Monitoring Committee. The Monitoring Committee decided that CMDA shall take enforcement action on the deviated / unauthorized Multistoreyed buildings covered in the survey report and Corporation of Chennai shall take enforcement action on other categories of buildings.

a) Kodambakkam Survey Report (Arcot Road)

There are totally 21 Multi-storeyed Buildings covered in the Kodambakkam Survey Report for which Enforcement action has been initiated.

b) 2nd Avenue Anna Nagar

There are 5 Multi-storeyed Buildings identified in 2nd Avenue Anna Nagar for which CMDA have initiated enforcement action.

c) Shanthi Colony 4th Avenue, Anna Nagar Survey report

There are totally 12 Multi-storeyed Buildings covered in the 4th Avenue Shanthi Colony, Anna Nagar Survey Report for which action has been initiated.

d) Lattice Bridge Road, Adyar and Thiruvanmiyur

There are 12 Multi-storeyed Buildings identified in the survey report conducted by Corporation of Chennai for which CMDA have initiated enforcement action.

e) Purasawakkam High Road

In the 50th Monitoring Committee meeting held on 19.11.2014, the Corporation of Chennai have submitted the survey report pertaining to Purasawakkam High road.

There are totally 11 Multi-storeyed Buildings identified in the Purasawakkam survey report. For all the 11 Multi-storeyed Buildings, CMDA has issued notices and further action will be taken on obtaining reply from the owners.

f) DF&RS have conducted survey in T.Nagar covering the violated buildings on Fire safety point of view. The Survey report has been placed before the Monitoring Committee and the Committee suggested guidelines on par with the action suggested on the buildings covered in the other survey reports.

70. **Details of enforcement action taken by Corporation
of Chennai**

- a)
- i) A dedicated separate Town Planning Section has been created at each of the three Regional Offices.
 - ii) In the Town Planning Approval Section the approvals for the Planning Permission are issued.
 - iii) In the Town Planning Enforcement Section enforcement actions are taken against the deviated / unauthorized constructions.
 - iv) Delegation of Powers has been issued to the Executive Engineer (TP-Enforcement) for identifying the unauthorized / deviated construction and issue stop work notice / notice calling for approved plan and also locking & sealing and demolition notice.
 - v) Powers have been delegated to the Regional Joint / Deputy Commissioner to lock & seal and demolition of the unauthorized / deviated constructions.
 - vi) A team of Assistant Engineer / Juinor Engineers / Asst.Exe.Engineer / Exe.Engineer has been posted exclusively in each of the three Regional Offices to effectively look after the enforcement action.
 - vii) Construction of buildings is checked at the foundation level by the Asst.Engineer / Junior Engineer to identify the deviation if any and rectify the deviation at foundation stage itself.
- b) The details of the enforcement action taken up by Corporation of Chennai from 27.07.2007.

No of stop work notice / notice calling for approved plan issued	4059
No of locking & sealing notice issued	726
No of buildings locked & sealed	179
No of buildings demolished	64

c) The monitoring committee directed to prepare the survey report of the following areas:-

- (i) Commercial Buildings abutting 4th Avenue, Shanthi Colony.
- (ii) Commercial Buildings abutting 2nd Avenue, Annanagar
- (iii) Commercial Buildings abutting L.B Road at Adyar & Thiruvannamiyur
- (iv) Commercial Buildings abutting Purasawalkam High Road.
- (v) MSB at Arcot Road, Kodambakkam.

The Survey Reports were submitted to the Monitoring Committee and the action taken report is as follows:

Sl. No	Place	No of Buildings	Remarks
(i)	4 th Avenue Shanthi Colony	42 buildings identified in the survey report	5 buildings locked & sealed
(ii)	2 nd Avenue, Annanagar	41 buildings identified in the survey report	5 nos are MSB for which enforcement action are taken by C.M.D.A and for balance enforcement action are pursued by Corporation of Chennai. 31 buildings lock & seal notice are served 1 building completion certificate is issued, 4 buildings have applied for regularization and 1 building identified as residential.
(iii)	L.B. Road at Adyar & Thiruvannamiyur	52 buildings identified in the survey report	12 nos are MSB for which enforcement action are taken by C.M.D.A and the balance enforcement action are pursued by Corporation

			of Chennai. 40 buildings lock & seal notice issued.
(iv)	Puraswalkam High Road	99 buildings identified in the survey report	Notices are being issued to these buildings
(v)	Arcot Road Kodambakkam	21 MSB buildings identified in the survey report	Enforcement action is being taken by C.M.D.A. for all buildings.

6. George Town Survey

Thiru K.R. Ramasamy alias Traffic Ramasamy has filed a Writ Petition in W.P.No.16555/2014 for issue of Mandamus directing the respondents to consider his representation dt.3.3.2014 and to file status report.

The Hon'ble High Court in its order dated 07.08.2014 has passed the following directions.

- i. A detailed inspection be carried out of each building in the George Town area (Sowcarpet) within a maximum period of three months.
- ii. A report be prepared as to the building violations for each building showing what are all the compoundable deviations which can be compounded on payment of requisite charges as well as the charges liable to be paid thereupon as well as the non-compoundable deviations which are liable to be demolished.
- iii. All concerned persons should thereafter be put on notice to deposit the requisite charges wherever it is compoundable and remove/demolish the unauthorized construction in case of non-compoundable. This exercise be undertaken within one month thereafter.
- iv. The processing of notices should be completed within a period of two months thereafter on non-compliance, demolition action should be taken with adequate police force on a day-to-day basis till it is completed.

A survey of the buildings in George Town area covering Kondithoppu and Sowcarpet by CMDA on abutting roads with 9.0 m width and above and by Corporation of Chennai abutting road with width

less than 9.0 m. was conducted. During the survey, the Door Nos., violations with respect to set back, road width, No. of floors and usage of buildings have been ascertained.

The total No. of buildings covered by CMDA is 3146 Nos. and the total No. of buildings covered by Corporation of Chennai is 11,304. The violated buildings include Ordinary Buildings, Special Buildings, Multi-storeyed Buildings and Institutional Buildings is 3080. The detail survey of each building is under progress.

Para 32 (ix) *To avoid future violations, buildings should be certified as having been constructed in compliance of planning permit and other applicable laws. The Certifying Officer will be personally responsible if any illegal building is certified. Electricity, water connection and occupation should be contingent on such certificate. In respect of the builders who have been identified by the Monitoring Committee as having put up illegal buildings, constructions by such builders should be certified for compliance only by the Chief Planner, who shall bear personal responsibility.*

71. In order to introduce and operationalise instrument of issuance of Completion Certificate as precondition for providing service connections to the newly constructed buildings stipulated in the Hon'ble High Court order as part of futuristic measure to reduce unauthorized development in future, the Monitoring Committee in its 2nd meeting held on 21.12.2006, directed CMDA to convene a meeting with all concerned agencies, namely, Chennai Corporation, Chennai Metro Water Supply and Sewage Board, Tamil Nadu Electricity Board, Directorate of Fire and Rescue Services, Traffic Police and Airport Authority of India. Accordingly, CMDA initiated action in this regard and organized consultation with the related agencies and evolved a draft framework suggesting tolerable limit of deviations from the approved plan for each parameter and placed before the Monitoring Committee for examination and approval.

72. The Monitoring Committee in its 4th meeting held on 23.01.2007 discussed the issuance of Completion Certificate for compliance of planning permission and other applicable laws and felt that a new system has to be evolved in which all the applicable laws should be enumerated and parameters set out clearly. Accordingly, CMDA convened a meeting with all concerned agencies on 09.01.2007 to evolve a new system and to fix the parameters in respect of applicable laws. Taking into account these discussions, the Monitoring Committee stipulated an interim arrangement in which CMDA will issue the Completion Certificate based on the compliance Certificate to be issued by the identified agencies. The Monitoring Committee in its 5th meeting held on 03.02.2007 introduced the arrangement of joint inspection by agencies concerned for issuing Completion Certificate.

73. The Monitoring Committee at its 7th meeting held on 07.03.2007 considered the norms of various departments and approved the same with certain modifications for issue of Compliance Certificate. Further, the Monitoring Committee constituted a Sub-Committee comprising the following Members to examine the individual cases awaiting Compliance Certificate with a view to suggest whether the norms need any further modifications:

1. The Vice-Chairman, CMDA
2. Prof. Suresh Kuppusamy
3. Dr. A. Srivathsan
4. Thiru Durganand Balsaver

With a suggestion to co-opt with

1. The Member-Secretary, CMDA
2. Thiru Subash Chandira, Member & Chief Planner, CMDA and
3. Thiru C. Palanivelu, Chief Planner, CMDA

74. The Monitoring Committee approved the framework of issuance of Completion Certificate with an arrangement of joint inspection by agencies concerned and issuance of Compliance Certificate with reference to guidelines prescribed by the Monitoring Committee for each agency to look into. As per this arrangement, CMDA issues Completion Certificate for the buildings on receipt of compliance certificate from other agencies and satisfaction of Completion Certificate norms to be looked into by the CMDA. Thus, a comprehensive framework of issuance of Completion Certificate for the MSB and Special Buildings is in place from April 2007 through Office Order 15/2007 dated 20.04.2007.

75. Provision is made in the Development Regulations of Second Master Plan for Chennai Metropolitan Area 2026 mandating the owner to obtain Completion Certificate before the building put into use. Under Rule 4(5) of Development Regulations the applicant / owner / builder / promoter / Power of Attorney and any other person who is acquiring interest shall not put the building to use without obtaining Completion Certificate from CMDA for Special Buildings, Group Developments, Multi-storeyed Buildings and Institutional Buildings (exceeding 300 sq.m. in floor area) and such other developments as may be notified by CMDA from time to time.

76. A comprehensive exercise on review of Completion Certificate norms, procedure and frame work was carried out by CMDA during November 2009. The Monitoring Committee in its 33rd meeting held on 30.11.2009 reviewed the Completion Certificate norms with necessary improvements through the Monitoring Committee appointed Sub-Committee. A draft revised Completion Certificate norms and framework that was prepared taking into account, the revised Development Regulations introduced in the Second Master Plan and experience of CMDA was placed before the Monitoring Committee appointed Sub-Committee on 14.12.2009. With necessary improvements, the Sub-

Committee approved a revised framework which was placed before the Monitoring Committee for consideration and approval in its 37th meeting held on 30.12.2009. The Monitoring Committee approved the revised framework and the same was placed before the Authority in its meeting held on 19.01.2010 for information. Subsequently, the revised framework of issue of Completion Certificate was brought into force with effect from 21.01.2010 through issue of Office Order No.1/2010 dated 21.01.2010.

77. Based on the direction of the Monitoring Committee, the information on the status of the progress of Completion Certificate is hosted in the CMDA's website periodically. As on 31.12.2014 CMDA have issued 1869 Completion Certificates. The copy of Completion Certificates is sent to the service providing agencies to enable them to extend the service connections to the completed buildings. Progress report on issue of Completion Certificate has also been placed before the Monitoring Committee meeting.

78. In respect of Special Buildings, Multi-storeyed Buildings, Completion Certificate is mandatory for obtaining power supply, water supply and sewer connections. As a result of this, there is a considerable amount of discipline in the post 2007 buildings. So far, 2389 applications have been received for Completion Certificate. Out of which, Completion Certificate was issued for 1942 buildings and Completion Certificate was rejected / returned for 308 buildings as the building was not within completion certificate norms which require rectifications. The owners have been provided with an opportunity to rectify the buildings to comply with the approved plan / Completion certificate norms and in such cases, CMDA issues Completion Certificate after causing inspection. The Completion Certificate is under process for the remaining 139 applications.

79. The Monitoring Committee noted that many developers took the route of obtaining court order with directions to service providing

agencies to extend service connections to the individual buildings without insisting completion certificates. The Monitoring Committee expressed serious concern on the trend of individual applicants filing Writ Petition before the High Court praying for service connections without insistence of completion certificate that is pre-requisite for extending the service connections as per the High Court order dated 23.08.2006 and obtaining specific individual order allowing the prayer. The Committee took note that more than 1000 such cases are allowed ordering effecting of water, sewerage and electricity connections which is not in tune with the order of the High Court dated 23.08.2006 in para 32-ix which stipulates that extending Electricity, water connection and occupation of the building should be contingent on obtaining Completion Certificate. The Monitoring Committee has also suggested to bring this issue before the Hon'ble High Court.

80. Where Completion Certificate is rejected for the violations, enforcement action is being initiated by forfeiting Security Deposit. If violations are serious in nature, locking, sealing and demolition notice is being issued and followed up. As per the suggestion of the Monitoring Committee to expedite the process of Completion Certificate applications, separate Officers are entrusted with processing Completion Certificate applications. The issue of Planning Permission and Completion Certificate are regularly hosted in CMDA's web-site for the information of the general public.

Para 32 (x) *The Chief Planner is directed to decide the applications for exemption pertaining to constructions prior to the cut-off date, i.e. 28.2.1999 and dispose of all the applications within a period of three months. It is needless to say that all the applications claiming exemption under the amended provisions of Section 113-A of the Act in respect of constructions made after 28.2.1999 shall stand dismissed and those applications shall not be entertained by the Government and/or the authority or officer authorized by the Government under Section 113-A of the Act. The Chief Secretary is*

directed to allot the hearing of appeals at least to two officers in addition to the Housing and Urban Development Secretary.

81. In order to dispose of the Regularization applications CMDA has furnished a detailed note in the Base Paper to the Monitoring Committee in its 3rd meeting held on 10.01.2007. The Committee after going-through the same recommended the following for processing the applications:

- a) All category of buildings constructed prior to 28.2.99 may be considered for Regularization irrespective of whether the application was received under 1999, 2000, 2001 or 2002 Regularization scheme and also the belated applications subsequently received, based on individual Court orders.
- b) Now, Tamil Nadu Town & Country Planning Act 1971 has been amended vide Act 61 dated 29.11.08 wherein provision is there for locking and sealing of deviated/ unauthorised portions and hence Monitoring Committee decided favourably for considering individual flats also for Regularization. Any individual flat in a building constructed prior to 28.2.99 may be considered for Regularization irrespective of whether the application was received under 1999, 2000, 2001 or 2002 Regularization scheme and also in respect of the belated applications subsequently received, based on individual Court orders.
- c) The plots sub-divided unauthorisedly prior to 28.2.1999 may be considered for Regularization irrespective of whether the application was received under 1999, 2000, 2001 or 2002 Regularization scheme and also in case of the belated applications subsequently received, based on individual Court orders.
- d) To adopt the criteria suggested by High Court to prove that the building was completed on or before 28.02.1999.
- e) To follow the Regularization 1999 Scheme in its entirety with regard to the Rules and Fees.

- f) Intimation regarding the decision taken on the applications should be sent individually to all applicants by CMDA.
- g) To reopen all the applications which had been approved in 1999 Scheme and in the extended schemes and to examine them afresh with reference to the rules and Regularization\ fees of Regularization 1999 Scheme.

The above recommendations of the Monitoring Committee are being strictly followed by CMDA.

82. The Monitoring Committee took note of the response of the applicants in furnishing evidences and it was decided that individual rejection letters can be sent to all those who have not produced evidence to prove that their construction was completed on or before 28-02-1999. The format of rejection letter was cleared by the Monitoring Committee in its 3rd meeting held on 10.01.2007. The Committee went through individual cases of Multi-Storied buildings and passed orders based on merits. The Monitoring Committee decided that instead of going through individual cases by the Monitoring Committee, in the first instance CMDA can give an opportunity to the applicant, to submit evidences to prove that the construction was completed before the cut-off date of 28.2.1999 since that would meet the ends of justice. In case of evidences furnished, the processed cases with credible evidence alone may be placed before the Monitoring Committee with data sheet for appropriate decision. The Monitoring Committee also decided that in case no evidence is received even after giving opportunity or the evidence produced is not credible, CMDA may reject the case.

83. Accordingly, wherever credible evidences have not been furnished even after giving opportunity, such applications under Regularization Schemes are being rejected by CMDA without placing before the Monitoring Committee wherever the evidences are found to be

credible the individual case is placed before the Monitoring Committee for decision on acceptance of the evidence.

84. The recommendations and guidance of the Monitoring Committee on disposal of Regularization applications are being strictly followed by CMDA and instructions have also been issued to the local bodies within Chennai Metropolitan area. Wherever credible evidences have been furnished by applicants under Regularization\ Schemes for having completed the building on or before 28-02-1999, the same are examined by CMDA and placed before the Monitoring Committee for decision.

85. So far the Monitoring Committee has examined 555 applications. Out of this 249 cases have been accepted as having been completed the buildings on or before 28.02.1999 and 120 cases were rejected as evidence furnished found to be with credible. As per the High Court orders the buildings constructed after 28.02.1999 have not been considered for and the direction by the Hon'ble High Court have been adhered to.

Para 32 (xi) Where claims are made that the unauthorized/deviated constructions were eligible for protection under the 1999 scheme – to determine the veracity of claims and evolve criteria for such identification, which may include the following:

- (a) Date of planning permission and proof of completion;***
- (b) Electricity service connection and water connection; and***
- (c) Registration of sale deed conveying constructed area.***

86. A Public Notice was issued on 02.12.2006 in the newspapers “New Indian Express” and “Financial Express” in English and “Dinathanthi” and “Dinakaran”, in Tamil conveying the above requirements.

87. During the examination of the responses received from the applicants specially with reference to the 146 Commercial Multi-storied Buildings, the CMDA has reported to the Monitoring Committee, the following practical difficulties experienced in the processing of Regularization applications.

- (a) Evidence furnished by the applicant is invariably either not conclusive or fool-proof. For example, the property tax receipts do not show the floor-wise details and nor do these indicate the total built-up area. Similarly water and sewerage tax receipts also do not give details in respect of floor area. Also the EB cards do not give full information on the above lines.
- (b) In most of the cases one has to look at the original records of the Corporation or Metro water or Electricity Board to see whether the assessment order or the demand raised covers the entire property. This takes lot of time. Besides, in some cases these records are not available.
- (c) In cases where the property has been let out, the lease agreements are very often found to be unregistered. We are not sure whether we should take cognizance of these agreements as reliable documents.
- (d) It is also seen from a close examination of a few cases that the area mentioned in the property tax assessment order does not tally with the area constructed at the site. This indicates under-assessment to varying degrees and it is a moot point whether such cases should be considered for.
- (e) In several cases, since the evidence given was incomplete or inconclusive, CMDA had to ask the applicant to furnish additional evidence in accordance with the principles of natural justice. This exercise takes time.
- (f) All the actions necessitated multiple examinations of these applications, which consumed lot of time to arrive at finality.

88. With regard to the above criteria prescribed by the High Court, the Monitoring Committee has decided that other evidences such as Property tax Assessment orders, CMDA enforcement notices and any other credible documents could also be considered as proof to establish the date of completion of the building on or before 28.2.1999. Accordingly the applications are scrutinized by CMDA and placed before

the Monitoring Committee for decision, wherever the evidences are found to be credible.

Para 32 (xii) The Monitoring Committee shall be consulted for applications claiming exemption under section 113-A of the Act as well as appeals under section 113-A (6). The Monitoring Committee shall also be consulted for changes in the Master Plan and Development Control Rules, which affect construction activity in the city.

89. As per Section 113-A of the Town and Country Planning Act, the Regularization Scheme applications examined adopting the guidelines of the Monitoring Committee. Wherever credible evidences have been furnished for having completed the building on or before 28.02.1999, such cases are placed before the Monitoring Committee and consulted for acceptance of the evidence as proof of construction having been completed prior to 28.02.1999 and to take action for regularizing the construction.

90. The Monitoring Committee in its 41st meeting held on 13.09.2011 resolved that after rejection, the applicants are preferring appeal before the Government under Section 113-A(6) of T&CP Act, 1971. The High Court in para 32 (xii) of the order dated 23.08.2006 has ordered that the Monitoring Committee shall be consulted for claiming exemption under Section 113-A of the T&CP Act as well as appeals under Section 113-A (6). The Government has also insisted that CMDA to send remarks on appeals after placing before Monitoring Committee. The Monitoring Committee resolved that the cases of Regularization Scheme appeals Section 113-A(6) may be placed before the Monitoring Committee. Accordingly, the appeal remarks are placed before the Monitoring Committee before forwarding the remarks to the Government. So far 348 appeal cases has been received and 67 cases has been disposed after placing before the Monitoring Committee. The Monitoring Committee in its 50th meeting held on 19.11.2014 resolved that only those

appeal petitions with credible evidence received at the appeal stage to prove the date of completion prior to 28.02.1999 required to be placed before the Monitoring Committee for acceptance and where credible evidence is not furnished, it need not be placed before the Monitoring Committee and the appeal remarks shall be sent to the Government directly recommending rejection.

91. The Monitoring Committee at its 8th meeting held on 23.3.2007, constituted a Sub-committee with the following Members to review and suggest necessary amendments in the Development Control Rules for Chennai Metropolitan Area:

1. The Vice-Chairman, CMDA
2. Thiru. Louis Menezes
3. Thiru. M.G.Devasahayam and
4. Prof. Suresh Kuppaswamy

Co-opted Members:

1. The Member-Secretary, CMDA
2. The Chief Urban Planner (Master Plan Unit)

The Monitoring Committee at its 9th meeting held on 13.4.2007, has enlarged the Sub-committee Members by including two additional Members viz.

1. Dr A.Srivathsan
2. Thiru. Durganand Balsaver

92. The draft Second Master Plan was circulated to the Monitoring Committee Members. Five special meetings of the Monitoring Committee were held on 28.05.2007, 29.06.07, 20.07.07, 3.08.07 and 31.08.07. The Monitoring Committee made certain suggestions with regard to the draft Second Master Plan. Subsequently, the Government of Tamil Nadu in G.O.Ms.No.190 H&UD, dated 02.09.2008 have approved the second Master Plan for Chennai Metropolitan Area.

93. The Monitoring Committee recommended that at the time of admitting applications for planning permission, the details of owner, power of attorney, builder and architect to be obtained. Accordingly, CMDA is obtaining the details at the time of receiving fresh planning permission applications.

94. The Monitoring Committee in its meeting held on 27.07.2007 took note that in such of those cases where the applicants, who had applied under Regularization\ Schemes have now rectified, the defects thereby satisfying the existing DCR, the planning permission for the construction can be considered and approved by CMDA without taking into account the Regularization application, as per the existing DCR. The decision of the Monitoring Committee is acted upon. The Monitoring Committee in its meeting held on 13.09.2011 decided that in such of those cases where the applicants who had applied under Regularization Schemes have now rectified the defects and/or by virtue of change in land use and rules etc., thereby satisfying the Development Regulations of the Second Master Plan the planning permission for the constructions can be considered and approved by CMDA as per the existing provisions of Development Regulations in entirety under 2nd Master Plan without taking into account the pendency/rejection of the Regularization Scheme applications.

95. The Development Regulation amendment relating to Special Rules for parking at upper floors above Stilt parking floor in Special Building / Group Development / Multi-storied Buildings was also placed before the Monitoring Committee in its meeting held on 30.03.2012 and the recommendation of the Monitoring Committee was placed before the Authority and forwarded to the Govt. and the same has been approved by the Govt. and notified in the Gazette.

96. Thus, in compliance with the Court order, the Monitoring Committee is consulted for changes in the Master Plan and Development Regulations.

Para 32 (xiii) The Regularization\ fee collected should be kept aside in a separate fund and not to be merged with the general account of the State of Tamil Nadu or its Agencies and this fund shall be used to alleviate the sufferings of the affected citizens in consultation with the Monitoring Committee.

97. A sum of Rs.285.97 Crores have been credited in Regularisation fee account from 1999-2000 to 2013-14. Out of this amount Rs.279.69 Crores have been remitted in the Government account. In compliance with the Court order, the amount is kept in a separate account under the following head of account.

“0217 – Urban Development – 60 – other Urban Development Schemes – 800 – other receipts – AE – Receipts of Regularization\ fee levied under the T & CP Act 1972 (New Sub Head)”.

98. The Monitoring Committee in its 36th meeting held on 30.11.2009 has decided as follows: “The Monitoring Committee took note of the refund request made by the applicant in the instant case and many other similar requests from the applicants, whose applications were rejected and also the applications where it is not regularisable. The Committee felt that since the High Court has upheld the 1999 Regularization Scheme and declared 2000, 2001 and 2002 Regularization scheme extensions as ultra virus, it may not have any objection for refund of Regularization fee for the rejected cases. However, the Regularization fees have been remitted to the Government. The Government has filed a review petition against the High Court orders dated 23.08.2006 before the Hon’ble High Court. Since the outcome of the review petition filed before the Hon’ble High Court will have a bearing on the refund, It was decided to obtain the opinion of Advocate General on the refund of fee for the rejected applications.”

99. In the above circumstances, opinion of the Advocate General has been sought on the following issues of refund of Regularization\ Fee in the Regularization rejected cases:-

- i) As per the High Court order, dated 23.08.2006, whether the fee collected under Building Regularization Scheme is refundable for the applications which have been already rejected and to those liable for rejection?
- ii) Whether the 'Regularization fee collected' specified in para-32(xiii) of the High Court order, dated 23.08.2006 includes the fee collected from the applicants whose applications were either rejected or liable for rejection for ineligibility under the Building Regularization Scheme?
- iii) While the review petition filed by the Government before the Hon'ble High Court against it's orders, dated 23.08.2006 is pending, whether the refund requests from the applicants, whose applications were either rejected or liable for rejection can be considered and refunded?

Para 32 (xiv) The Corporation is directed to forthwith take steps move the encroachments on all busy streets like anathan Street, Natesan Street, Madley Road, etc., the Commissioner of Police is directed to provide late police force at the disposal of the Corporation the purpose of carrying out work of removal of achments.

100. Corporation of Chennai reported that it has removed the encroachments, advertisement and hoardings/projections in various locations such as Madley Subway Service Road and Railway Border Road, Ranganathan Street, Usman Road and Natesan Road and are continuing the process in other areas also. So far 282 encroachments have been removed.

Agenda Item 52.04 Reg. Unit – Reg.I Division – Regularization of Individual residential flat (flat No.2 in GF) in GF+3F residential building at S. NO. 192/2, R.S. NO. 14/1, of Kodambakkam Village, Door No. 22, New No. 30, Plot No.C, Perumal Koil Street, West Mambalam, Chennai – 33 - Subject placed before the MC for suitable decision – Reg.

Minutes The Monitoring Committee on going through the file resolved to regularise the **Individual residential flat (flat No.2 in GF) in GF+3F residential building at S. No. 192/2, R.S. No. 14/1, of Kodambakkam Village, Door No. 22, New No. 30, Plot No.C, Perumal Koil Street, West Mambalam, Chennai – 33** . The Corporation of Chennai Property Tax paid receipt No. 13250, dated 01.08.1997 for the period of 1/97-98 & 2/97-98 was accepted as credible evidence of having completed the building before 28.02.1999. The flat may be considered for regularisation subject to usual conditions including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan.

Agenda Item 52.05 Reg. Unit – Reg.I Division – Regularization of Individual residential flat at 2nd floor in GF +2F building in T.S. No. 3, Block No.4 of Zamin Mambalam Village at Door No. 3/1, New No. 7, Flat No.5, 2nd floor Hanumar Koil Street, West Mambalam Chennai – 33 - Subject placed before the MC for decision- Reg.

Minutes Monitoring Committee on going through the file resolved to accept that the **regularisation of Individual residential flat at 2nd floor in GF +2F building in T.S. No. 3, Block No.4 of Zamin Mambalam Village at Door No. 3/1, New No. 7, Flat No.5, 2nd floor Hanumar Koil Street, West Mambalam Chennai – 33** had been completed before 28.02.1999. The Corporation of Chennai Property tax assessment-working sheet No.185008, dt.13.01.1998 for the period of 2/1997-98 favouring Thiru B. Rajanna (erstwhile owner) was accepted as credible evidence. Regularisation may be considered subject to usual conditions including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan.

Agenda Item 52.06 Reg. Unit – Reg.I Division – Regularization of an individual residential flat at 2nd floor in GF+FF+2F part building in T.S. No. 88, Block No.52 of Kodambakkam Village at Door No. 16, Plot No. C-149, 16th Avenue, Ashok Nagar, Chennai – 83 - Subject placed before the MC for decision – Reg.

Minutes The Monitoring Committee going through the file resolved to accept that the **regularisation of an individual residential flat at 2nd floor in GF+FF+2F part building in T.S. No.88, Block No.52 of Kodambakkam Village at Door No.16, Plot No.C-149, 16th Avenue, Ashok Nagar, Chennai – 83** had been completed before 28.02.1999. The Corporation of Chennai Property tax assessment-working sheet No.306737 & 306738, dt.07.12.1998 for the period of 1/1998-99 to 2/1998-99 was accepted as credible evidence. Regularisation may be considered subject to usual conditions including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan.

Agenda Item 52.07 Reg. Unit – Reg.I Division – Regularization of unauthorized / deviated construction of individual residential flat at 3rd floor in GF + 3Floor building in T.S. No. 93, Block No. 49 of Pulliyur Village at Flat No. 14, Door No. 43/2 (Old No.34), Janakiram Street, West Mambalam, Chennai – Subject placed before the MC for decision – Reg.

Minutes The Monitoring Committee going through the file resolved to accept that the **regularisation of unauthorized / deviated construction of individual residential flat at 3rd floor in GF + 3Floor building in T.S. No. 93, Block No. 49 of Pulliyur Village at Flat No. 14, Door No. 43/2 (Old No.34), Janakiram Street, West Mambalam, Chennai** had been completed before 28.02.1999. The Corporation of Chennai Property tax assessment order GRS No.C124/00407 dated 25.10.2007 for the period with effect from 2/98-99 was accepted as credible evidence. Regularisation may be considered subject to usual conditions including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan.

Agenda Item 52.08 Reg. Unit – Reg.II Division – Regularization of an individual residential flat at third floor at New No.3, Old No. 2, Damaodharan Street, Kellys, in R.S. No. 3138/25, Block No.53, Chennai – 10 – Exemption under Section 113-A of Town and Country Planning Act, 1971 - Subject placed before the MC for decision – Reg

Minutes The Monitoring Committee going through the file resolved to accept that the **regularisation of an individual residential flat at third floor at New No.3, Old No. 2, Damaodharan Street, Kellys, in R.S. No. 3138/25, Block No.53, Chennai – 10** had been completed before 28.02.1999. The Corporation of Chennai Property tax assessment receipt No.20040 dated 11.05.1998 for the period with effect from 1/97-98,2/97-98 & 1/98-99 was accepted as credible evidence. Regularisation may be considered subject to usual conditions including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan.

Agenda Item No. 52.09 Reg. Unit – Reg. Dn. II - Regularization of Ground Floor + 2Floors Residential building at Door No. 65, Mukathal Street, R.S. No. 830/11, B. No. 15, Purasawalkam, Chennai - Evidences received - Subject placed before the Monitoring Committee for decision – Reg.

Minutes The Monitoring Committee going through the file resolved to accept that the Regularization of Ground Floor + 2Floors Residential building at Door No. 65, Mukathal Street, R.S. No. 830/11, B. No. 15, Purasawalkam, Chennai had been completed before 28.02.1999. The Corporation of Chennai Property tax assessment bill No.6,4,5,9,11,13 dated 27.11.1999 for the period with effect from 2/98-99, was accepted as credible evidence. They should remit the Property Tax for the difference in area 807 Sq.ft in total and produce the receipt for the same and then the regularisation may be considered subject to usual conditions including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan.

Agenda Item 52.10 Reg. Unit – Reg.III Division - Thiru R. Venkatesh, Power of Attorney holder of Thiru A.N. Kumarasami (Land owner) applied for regularisation of unauthorised construction of 2nd floor over GF+FF+MF approved residential building with 8 dwelling units at Door No.3/8, Shaw Wallace colony 2nd Street, Adambakkam, Chennai in S. No. 578 of Velachery Villagae – Request to regularise individual flat No.3/8 at 2nd floor in the above building – Evidence furnished – Examined - Subject placed before the Monitoring Committee for decision- Reg.

Minutes The Monitoring Committee on going through the file resolved to accept the Individual residential flat in 2nd floor at Door No.3/8, Shaw Wallace colony 2nd Street, Adambakkam, Chennai in S. No. 578 of Velachery Village had been completed before 28.02.1999. The Corporation of Chennai Property Tax Assessment Notice No. 004011 dt 16.06.1999 with effect from 2/98-99, zone no. 10, div no. 153, bill no. 6107 dt.16.06.1999 was accepted as credible evidence. Regularisation may be considered subject to usual conditions including collection of applicable charges and fees and the plan showing the regularisable area duly coloured in the details plans along with site plan.

Agenda Item 52.11 Reg. Unit – Reg. Division III – Regularization of individual flat in GF+3floors Residential building with 11 dwelling units at Door No.28, 1st Main Road, in R.S. No. 3929, Pattah S. No. 3927/54, Block No. 86 of Mylapore Village Chennai – Conversion of non – FSI area in the GF into a residential flat - Evidence furnished – Examined - Subject placed before the Monitoring Committee for suitable decision – Reg.

Minutes The Monitoring Committee on going through the file resolved to accept the Individual residential flat in ground floor at Door No.28, 1st Main Road, in R.S. No. 3929, Pattah S. No. 3927/54, Block No. 86 of Mylapore Village Chennai had been completed before 28.02.1999. The Corporation of Chennai Property Tax Assessment Notice No. 227192, dt 01.03.199, with effect from 2/98-99, working sheet No. 1459, dt.01.03.1999 was accepted as credible evidence. Regularisation may be considered subject to the condition that the applicant should re-asses the property and then remit arrears of property tax for the difference in floor area of 351 sq.ft. for the period from 1998-99 to till date and other usual conditions

including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan.

Agenda Item 52.12 CMDA – Reg. Unit – Regularisation Dvn. I & I – Regularisation of deviated GF+2Floors and unauthorised construction of 3rd floor Institutional building (St. John’s Mat. Hr. School) at D.No.3 & 4, South Canal Bank Loop 1st Street, Mandaveli, Chennai – 28 in R.S. No. 4131/14, 15, 27 & 28, Block No.90 of Mylapore Village – Opportunity given– Particulars received – Examined and placed before the Monitoring Committee for decision- Reg.

Minutes The Monitoring Committee on going through the file resolved to accept the **unauthorised construction of 3rd floor Institutional building (St. John’s Mat. Hr. School) at D.No.3 & 4, South Canal Bank Loop 1st Street, Mandaveli, Chennai** had been completed before 28.02.1999. The applicant furnished the order issued in the XIX Metropolitan Magistrates Court, Kannapper Thidal dated 03.11.1998 & copy of H&UD Dept letter No. 29980/UD-VI/98-2 , dated 05.03.1999 and Enforcement Cell Dn. Demolition Notice in Lr. No. ES1/13712/98 dated 23.04.1999 are accepted as credible evidences. Regularisation may be considered subject to usual conditions including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan.

Agenda Item 52.13 CMDA – Reg. Unit – Regularisation Dvn. I & I – M/s Bhagyam Exports have applied for Regularisation of deviated GF+FF and unauthorised construction of 2nd & 3rd Floor Industrial building with 130 HP and 250 workers at D. No. 55, G.N.G. Road, Varadarakaira, S. Nos. 2002/2, 2A, 2B and 2C of Ambattur Village Chennai – Examined - Placed before the Monitoring Committee for decision- Reg.

Minutes The Monitoring Committee discussed the subject in detail and noticed that the applicant has not furnished any credible evidence of having completed the building prior to 28.02.1999. The only evidence available in the file is of the CMDA’s inspection report. However the Monitoring Committee noted that though the inspection report dated 23.07.1999 indicated that the construction was G + 2 floors + 3rd Floor AC sheet roof

in the Regularisation Plan submitted by the applicant; the 3rd floor is not shown. It was decided to check the earlier minutes of the Monitoring Committee to ascertain upto which the date the inspection report was accepted that the building for having completed the building prior to 28.02.1999 and based on that action to be taken. Meanwhile the applicant may also be advised to remove the 3rd floor and report to CMDA.

Agenda Item 52.14 CMDA - Regularisation Unit – MSB Dn. – Regularisation of BF+GF+7F+8th Floor (part) Commercial building at Door No. 3 pt. & 4, Moores Road in T.S. No. 77/11, 76/13 & 76/14 of Nungambakkam Village –Placed in 34th Monitoring Committee - Deferred – Discrepancy in floor area – Additional Evidences called for – Furnished – Examined – Credible Evidences – Subject placed before the Monitoring Committee for decision – Reg.

Minutes Deferred

Agenda Item 52.15 CMDA – Reg. Unit – Reg. MSB Dn. – Regularisation of BF+GF+4F + 5th Floor (part) office building at Door No.27, G.N. Chetty Road, T. Nagar, T.S. No. 4893, Block No.114, of T. Nagar – Evidence furnished – High Court Order - Subject placed before the Monitoring Committee for decision – Reg.

Minutes The Monitoring Committee on going through the file resolved to reject the **regularisation of BF+GF+4F + 5th Floor (part) office building at Door No.27, G.N. Chetty Road, T. Nagar** as the applicant did not attend the personal hearing given to them in compliance with the High Court order in W.P. No. 36988 of 2007 & MP No. 2 /2007, dated 12.12.2007 and the evidences furnished by the applicant also not prove that the completion of 5th floor part building before 28.02.1999.

Agenda Item 52.16 CMDA – Reg. Unit – Reg. MSB Dn. – Regularisation of deviated construction of three blocks of GF+3F and unauthorized addition of 4th & 5th floor over two blocks of building with a temple at No.15, Medavakkam Tank Road 2nd Street, Kilpauk - Evidence furnished – Subject placed before the Monitoring Committee for decision – Reg.

Minutes The Monitoring Committee on going through the file resolved to reject the **regularisation of deviated construction of three blocks of GF+3F**

and unauthorized addition of 4th & 5th floor over two blocks of building with a temple at No.15, Medavakkam Tank Road 2nd Street, Kilpauk as the applicant did not furnish evidence in proof of completion of the buildings before 28.02.1999 as directed by the High Court in its order dated 27.06.2013 in W.P. No.719/2006. Further there is an objection against regularisation citing inadequate foundation design and sale of flats after withdrawal of GPA given to the builder.

The Monitoring Committee has also suggested that in future any objections is received has to be regularised, the same has to be included in the agenda.

Agenda Item No. 52.17 CMDA – Reg. Unit – Reg. MSB Dn. – Regularisation of Multistoreyed commercial cum Residential building at Door No.167/73, Lattice Bridge Road, S. No.72 of Thiruvanmiyur Village - Evidence furnished – Subject placed before the Monitoring Committee for decision – Reg.

Minutes The Monitoring Committee on going through the file resolved to accept that the **Multistoreyed commercial cum residential building comprising BF+GF+8F at Door No.167/73, Lattice Bridge Road, S. No.72 of Thiruvanmiyur Village** had been completed before 28.02.1999. The Corporation of Chennai assessment working sheets No.231, dt.01.03.1999, submitted by the individual flat owners were accepted as credible evidence. Regularisation may be considered subject to usual conditions including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan and also after obtaining the NOC from DFRS and Structural Stability Certificate.

Agenda Item 52.18 CMDA – Reg. Unit – Reg. MSB Dn. – Regularisation of GF+3F+4F pt. commercial cum residential building at old Door No. 49, New Door No.41, Door No. 22 (as per document), General Muthiah Mudali Street, O.S. No. 2344, Resurvey No. 8096, Sowcarpet, Chennai – 79 – Evidence furnished – Subject placed before the Monitoring Committee for decision – Reg.

Minutes The Monitoring Committee on going through the file resolved to accept that the **GF+3F+4F pt. commercial cum residential building at old Door No. 49, New Door No.41, Door No. 22 (as per document),**

General Muthiah Mudali Street, O.S. No. 2344, Resurvey No. 8096, Sowcarpet, Chennai – 79 had been completed before 28.02.1999. The Corporation of Chennai assessment working sheet No.368, dt.27.11.1999 was accepted as credible evidence. Regularisation may be considered subject to the condition that the applicant should re-asses the property and then remit all the arrears of property tax for the difference in area of 3330 sq.ft. for the period from 1998-99 to till date and other usual conditions including collection of applicable charges and fees and plan showing the regularisable area duly coloured along with detailed plan and site plan and also after obtaining the NOC from DFRS and Structural Stability Certificate.

Agenda Item 52.19 Reg. Unit – Reg. I & I Division – Regularisation of unauthorised / deviated constructions of GF+MF+FF+SF (pt). Industrial building at Door No.111/141, P.No.83 & 84, Nehru Nagar 1st Main Road, S.No.317/1 (pt) of Kottivakkam Village – Regularisation Rejected – Remarks on the appeal petition – Subject placed before the Monitoring Committee for suitable decision – Reg.

Minutes The Monitoring Committee has gone through the evidence furnished by the applicant. The Monitoring Committee has not considered the evidence given by the valuer but accepted the certificate given by the Bank. However, it is noticed that in the certificate given by the Bank the mezzanine floor is not mentioned. The Monitoring Committee has resolved to seek clarification from the Bank on this issue and in addition to seek clarification whether the certificate was issued on completion of the building and issue.

Agenda Item No. 52.20 Enforcement Cell – Issue of Completion Certificate for obtaining service connections – Details placed before the Monitoring Committee for information - Reg.

Minutes Recorded

General:

1. While inspecting the regularizing cases, the setback measurements shall be marked in the inspection plan. In addition the detailed plan showing number of floors, elevation section should be insisted from the applicant. In addition the individual flat shown for regularization shall be clearly marked by hatching.
2. It is noticed that in several developments, the developer is putting up the arches at the entrance including security room and other rooms for incidental uses. This may be discussed in the DR Committee and amendments if any amendments required may also be discussed.
3. A detailed survey of Multistoried buildings in CMA may be conducted by engaging private agency or institution.
4. Structural Stability Certificate in the prescribed format to be insisted for all MSB application cleared by MSB while regularizing the building.
5. In several developments, the owner has put up ramp which encroaches on the pavements. All such developments should be inspected and shall be considered on par with aerial encroachments and action should be initiated by Competent Authority.

Sd/xxx
VICE-CHAIRMAN (i/c), CMDA &
CONVENOR, MONITORING COMMITTEE

TRUE COPY/FORWARDED/BY ORDER

PERSONNEL MANAGER (REG.UNIT)