

Mega city, Divisional Town and District Town's municipal areas including country's all the municipal areas' playground, open space, park and natural water reservoir Conservation Act, 2000

- 1) Short title and commencement
- 2) Definition
- 3) Overriding effect of the act
- 4) Mass publication of master plan
- 5) Obligation to change classes of playground, open space, park and natural water body
- 6) Application of changing the class etc
- 7) Dispose of application
- 8) 8. Penalty, etc
- 9) Special Power of some Magistrate or metropolitan magistrate on metropolitan region should apply the monetary penalty
- 10) Action taken in good faith
- 11) Offences committed by companies
- 12) Cognizance of offence and claim for compensation
- 13) Power to make rules.-

Introduction

Act is created for conservation, regulation, protection and to reduce the abuse of resources as well as to make them sustainable for future. Nevertheless every Act has some lacking. The lacking which appeared in our opinion in this “Mega city, Divisional Town and District Town’s municipal areas including country’s all the municipal areas’ playground, open space, park and natural water reservoir Conservation Act, 2000”, is given bellow. Comparison of such kind of Act in other countries is also tried to linked here.

Mega city, Divisional Town and District Town’s municipal areas including country’s all the municipal areas’ playground, open space, park and natural water reservoir Conservation Act, 2000

[The Act was published in the Bangladesh Gazette, extra-ordinary issue of 18-9-2000]

The provided Act of Mega city, Divisional Town and District Town’s municipal areas including country’s all the municipal areas’ playground, open space, park and natural water reservoir Conservation.

Whereas it is necessary and expedient to provide for conservation of Mega city, Divisional Town and District Town’s municipal areas including country’s all the municipal areas’ playground, open space, park and natural water reservoir Conservation:

1) Short title and commencement:

- i) This act will be known as playfield, open space, park and natural water reservoir conservation act, 2000 for all metropolitan areas, divisional areas and including all district areas.
- ii) It shall come into force on such date as the govt. may by notification in the official gazette.

2) Definition-

If nothing goes to the other side, according to this Law-

- (a) ‘Green Space’- means the place which has been declared by the government or gazette as free space or park space on master plan or land survey map.
- (b) ‘Open Space’- means the place which has been declared by the government or gazette as the place used by the people for Eidgah or others for a large time span.
- (c) ‘Authority’- means RAJUK, CDA, KDA, RDA and temporarily: any established Shahar Unnayan Kartipokkha, city corporation and divisional or district pourashava with all other pourashava of the state which has been established by some present act.
- (d) ‘Playground’ means- the place which has been indicated on master plan for the presentation of game and sports skills.
- (e) ‘Fixed’ means- fixed up by the act of this Law or ordinance.
- (f) ‘Natural wetland’ means- the place declared as the flood flowing land as River, canal, beel, pond, stream, fountain indicated in master plan by the government gazette or government and flowing water and the land which conserve the rain water should be included here.

- (g) 'Master plan' means- the drawn up master plan by RAJUK, CDA, KDA, RDA and another act which has been established the Shahar Unnayan Kartipokkha, city corporation and divisional or district pourashava.
- (h) 'Class change' means- changing the state of the place by land filling, or building pacca, semi-pacca, or kacha structure which has been presented on master plan or government gazette.
- (i) 'Government' means- the administrative ministry of this Law or Act.

3) Overriding effect of the act:

Notwithstanding anything contained to the contrary in any other law for the time being in force, the provisions of this Act, rules and directions issued under this Act shall have effect.

4) Mass publication of master plan:

a) After the finalization of master plan that copy must hung at the Head office and branch offices, if it exists, in such a way so that it may notice the inhabitants of the area in one month of the date it being issued.

b) The authority will manage to sale the printed copy or zonal map of the master plan at the due charge.

c) The proper authority will manage the mass publication for the people's consideration of any specific method or system of master plan and their duties and responsibilities considering to it.

Comments: By which method the proper authority will broadcast the master plan is not clearly specified in this act.

5) Obligation to change classes of playground, open space, park and natural water body:

Except the condition of this Act playfield, open space, park and natural water bodies which are marked can not be used another way, it can not be rented, leased or can not be handover any other use.

Comments: In Farmgate it has been observed that the open space used as park, now leased to the authority of "ORROSH SHARIF" which is the violation of this act. This is for the lack of prudence of the legal authority. This is one of the examples of violation of Act.

6) Application of changing the class etc-

- (a) Under the act (5) - if it is needed to change the class of the land or it's any portion, the owner should apply through the correlated authority by writing the cause to the government.
- (b) Under the sub section (1) after passing 60 dates of getting the application the authority should consider the application as legality of changing class and will send the application to the government and also put the appropriate decision with it. As-
 - i) If the class of the applied place changed then either it will hamper the goal of the master plan, if then the probable amount –how much; and
 - ii) The probability of effecting badly on atmosphere and the inhabitants for changing the class.

- (c) If the place at class changing id owned by government, local authority, legal agency or company then the act will remain same too.
- (d) Under subsection (2) the authority can demand the related information or deeds and the applicant will be bound to submit them in 15 dates of accepting the notice.
- (e) Under this act this application will not be granted if the fee to the authority, in fixed way is not attested with memo.

Comments: A person to achieve his own benefit can make bribe the authority to make his cause effective and can passed his appeal as a legal cause.

7) Dispose of application:

a) Under section (6), within 60 days, of getting the application- govt. opinion of the proper authority and considering the request will get decision or account of application and with 15 days of decision making the decision will be apparel with written documents.

But the condition is, in case of decision making on account of the approval of the application govt. will give the opportunity of hearing within 90 days.

b) The decision taken under sub-section (1), the deprived applicant would apply to govt. for reconsideration of, from the date of getting the decision enclosed with memorandum within next 30 days.

c) Under the sub-section (2), for reconsideration of decision no appeal will be accepted if the imposed fee of memo is not attached properly as per govt. rule.

d) Govt. decision will be finalized for that application under the sub-section (3).

8. Penalty etc:

1) The person will be penalized as either not more than 5 years in jail or not more than 50 thousand tk or the both.

2) If the class is changed at any land or its portion by breaking the Law of act (5) then the authority will protest the owner of the land or the Law breaker through legal notice and command to destroy the illegal building structure and no compensation will be given.

3) All the building structure o infrastructure is established by breaking this Law then they will be captured by the authority on the command of court.

Comments: Though under this act any illegal construction may be destroyed but in case of tree cutting how the compensation will be measured is not described in this act.

9) Special Power of some Magistrate or metropolitan magistrate on metropolitan region should apply the monetary penalty:

Under act (8) applying monetary penalty on any person a first class magistrate or metropolitan magistrate on metropolitan region should apply Code of criminal Procedure, 1898 (Act V of 1898) whatever something other may present here.

10) Action taken in good faith.

No civil or criminal case or other legal proceeding may be instituted against the Authority or, in place of, the Chairman or the Chief Executive Officer or of the

authorities any other employee's or, any other person of the Department for any action which caused or is likely to cause injury to any person, if such action is taken in good faith under this Act or rules.

Comments: A proper monitoring system should be established to avoid such unexpected occurrence and if it is prove that the action taken is not in good faith then what will be the punishment and how it is possible is not mentioned in this act.

11) Offences committed by companies.

Where a person violates any provision of this Act if be a company, then the owner of the company, director, manager, secretary or any other officer or agent of the company, shall be deemed to have violated such provision or have failed to perform the duties in accordance with the notice or failed to comply with the order or direction, unless he proves that the violation or failure was beyond his knowledge or that he exercised due diligence to prevent such violation or failure.

Explanation. - For the purposes of this section -

(a) "Company" means any statutory public authority, registered company, and association or organization,

(b) "Director", in relation to a commercial establishment, also includes any partner or member of the board of directors.

Comments: Though under this act there is a scope to prove that the rules which is disobeyed is unconsciously but the time limitation of evidence is not described.

12) Cognizance of offence and claim for compensation.

No court shall take cognizance of an offence or receive any suit for compensation under this Act except on the written report of The Chairman or The Chief, no matter the name it called.

13) Power to make rules.

The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Conclusion: Government and conscious people are working together to preserve the playground, open space, park and natural water reservoir etc. by imposing acts, rules and seminar, symposium, awareness program. But till it is observed that the overall condition of the country's mentioned areas are under threat. This is because of contemplation of proper authorities and lacking of strict implementation of the rules and acts. All over the world this kind of Act is implemented in best where there is no scarcity of food, cloth, health, shelter etc. The developed countries can easily impose their Acts because of technological advancement, proper implementation, strict punishment and alternative ways to protect and preserve these areas. THE KERALA IRRIGATION AND WATER CONSERVATION (AMENDMENT) ACT, 2006, OPEN SPACE AND URBAN SPRAWL: THE CASE OF THE MARYLAND FOREST CONSERVATION ACT, THE NATIONAL PARK SERVICE AND THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1980, such kind of Acts are also the similar to our Act. But the fruitful result of the Act depends on proper implementation. Our Act is excellent but it should be updated subsequently.

Reference

www.ielrc.org/content/e0303.pdf
www.maryland.org/172747013.html
www.nps&anilca.org/adhi6.htm