

BIHAR REGIONAL AREA DEVELOPMENT AUTHORITY ACT 1974

The Bill was passed by the Bihar Legislative Assembly on 19-9-1974. It is an Act to provide for the development of various regions of the State of Bihar according to plan and for matters ancillary thereto. Be it enacted by the Legislature of the State of Bihar in the twenty-eighth year of the Republic of India as follows: CHAPTER PRELIMINARY •1. Short title and This Act may be called the Bihar Regional Development Authority Act, 1974. (2) It shall come into force on such date and in such areas as the State Government may, by notification in the official Gazette, appoint. Comments and case-law [Comments—The Bihar Regional Development Authority Ordinance, 1974 (no. 175 of 1974) was promulgated on 19-9-1974. By successive ordinances it was kept alive and finally converted into the present Act of 1982. The list of Ordinances after 175 of 1974 is as follows: 33 of 1975; 92 of 1975; 126 of 1975; 128 of 1975; 59 of 1976; 129 of 1976; 187 of 1976; 40 of 1977; 98 of 1977; 162 of 1977; 207 of 1977; 256 of 1977. 3.3 of 1978; 98 of 1978; 38 of 1979; 86 of 1979; 113 of 1979; 2 of 1980; 96 of 1980; 116 of 1980; 10 of 1981; 120 of 1981; 191 of 1981 and Act 40 of 1982. The Act is not the replica of its predecessor ordinances, rather some changes in some sections were introduced while converting it into an Act. A significant controversy seems to be there in the assignment of 'year' to this Act. While the heading carries the year 1974: in section (i) year '1981' has been assigned. The text of this Act (40 of 1982) was published in the Bihar Gazette only in Hindi. However, the publishing of substantial portion of the Act in English in this Book could be rendered possible by comparing the text of the Act in Hindi with the text in Hindi of earlier Ordinances and making the English text of the Ordinances (the Ordinances appeared in both English and Hindi) where the two Hindi texts tally exactly. Where very minor translation was involved. The purpose of the Act is to plan the town and thus to keep industrial areas away from the residential or commercial areas. *Swastik Rubber Products Ltd. v. Municipal Corporation*, AIR 1981 SC 2022. A statute providing remedy of appeal only against some decisions of the Town Planning Officer, cannot be held to be discriminatory for that reason.

1. Assented to by the President on 23-01-1982 and published in Bihar Gazette (ext- Ord.) dated 25-1-1982. Bihar Regional Development Authority Act, 1974 f sec. -i Prakash Amichand Shah vs. State of Gujarat, 1986 SC (1986) SCC 581. The scope and authority or a precedent should never be expanded unnecessarily beyond the needs of a given situation. The effect of non-performance of a duty imposed by a statute in the manner prescribed by the statute is not discovered by a simple answer to the question Whether the provision is mandatory or directory. *K. Srinivasan vs. State of Karnataka* (1987) 133 Cr. L.J. 658. Here two or more laws operate in the same field each containing a non-obstacle clause stating that its provisions will override those of any other law, conflict has to be decided with reference to the object and purpose of the law. Where the newly enacted Act, is made nugatory on account of the provisions of the earlier Act, the newly introduced Act will prevail. *Md. Yunus vs. Bibi Phenkani*, 1987 PLJR 65:1986 BBCJ 736. The restrictions contained in this Act With regard to erection of buildings are mandatory in character. A complete embargo is put on the authorities to grant sanction except in accordance with the "Master Plan", *Doman Paswan vs. State of Bihar*, 1988 PL&ER 968. Laws imposing taxes can amount to restrictions on trade, commerce and interstate intercourse, if their imposition hampers the free flow of trade and these are not what can be termed to be compensatory taxes or regulatory measure. *West Bengal Hosiery Association vs. State of Bihar*, 1988 PL&R (SC) 96. A proviso should not provide beyond the field covered by the substantive provision. If the proviso does so, it must be read down. *State of Punjab vs. (1989) SCC 321*. Provisions of Bihar Land Ceiling Act are also applicable to agricultural land situated within limits of a Municipality or a Notified Area Committee. *Ram Chandra Singh vs. Sub-Divisional Officer*, 1989 PI_dR. -103. Blacklisting any person in respect of business ventures has civil consequence for the future business of the person concerned in any event. Even if the rules do not express so, it is an elementary principle of natural justice that parties adversely affected by any order should have the right of being heard and making representation against the order relating to blacklisting, *Raghunath Thakur vs. State of Bihar*, (1989) 1 SCC 229. also see *Erusli/s Equipment and Chemicals Ltd. vs. State of Bihar*, (1975) 1 SCC 70. Pavement stalls creating congestion and inconvenience can be removed following procedure prescribed by law. Municipal authorities have no legal obligation to provide the pavement squatters alternative shops for their rehabilitation. *Municipal Corporation of Delhi vs. Gurnam Kaur* (1989) 1 SCC 101. The

issuance of the draft notification proposing to exclude certain areas from the territorial limits of the Municipal Corporation or Authority cannot effect the exclusion of those areas: The issue of final notification to that effect is necessary to bring about their exclusion. *Services Housing Co-operative Society Ltd. vs. State of Bihar* (t) PLJR 21. If the procedure laid down in the Act, laying down the mode of giving notice to the owner or occupier of the building to furnish certain particulars of the building are not followed by the concerned Authority, the subsequent proceedings may be held to have become vitiated. *Services Housing Co-operative Society Ltd. vs. State of Bihar*, iggo (2) PLJR 332

4. Bihar Regional Development Authority Act, 1974 see. It there is bona fide dispute regarding the title of the State Government or any property, the State Government cannot take an unilateral decision in its favour that the disputed property belongs to it. Such a dispute must be decided upon by the ordinary course of law. *Smt Rekha Singh vs. State of Bihar* (2) PI-JR 854. A declaration of law is binding on all concerned whether a person is party to that proceeding or not. *Bihar Chamber of Trading Stations vs. State of Bihar* (1) PLJR A declarative Act will not be held to be ultra vires for "want of valid express guidance given in that regard, if there are any inbuilt safeguards thereto in Act itself. *Guilders' Association of India vs. State of Bihar*, 1992 (1) PLJR (f Practice adopted in the past cannot override the statute and statutory regulations. *B.P.S. T.E. vs. State of Bihar*, 1993 (1) PLJR 352. Courts must endeavour to harmonise different provisions of same and where two interpretations are equally possible, prefer an interpretation which will lead to harmonious construction rather than one that will result in inconsistency or make a provision redundant. *Mosst. - Pcmlo vs. Hiralal 'Watito'*, 1992 p LJR 358. There is urgent need for taking effective steps for ensuring prevention of damage to monuments of historical and archaeological importance. Courts are competent to give directions for shifting industrial units for effectuation of this purpose. *Surendra Kumar Singh Vs. State of Bihar*, 1991 (2) PLJR Authorities are bound by the procedures laid down by them. Unless the procedure laid down is complied with the Order passed in violation thereof would be subject to judicial review. *Rajdeo Prasad vs. State of Bihar*, 1990 (2) PI-JR 20 A Corporation may be "State" within the meaning of Article 12 of the Constitution being an instrumentality of State, but an agreement entered into such Corporation cannot be termed as an agreement. "by the State so as to attract Article 299 of the Constitution. *Usha Brecco Ltd. vs. State of Bihar* (1) PLJR 183. Auction of land or building through open auction bid cannot equated with alienation under Hire Purchase Scheme of the State Government any Housing Authority. *Rajendra Prasad Singh vs. State of Bihar*, 1993 (t) PI-JR 361 The Act has been enacted to provide for the development of various regions of the State of Bihar. By reason of the regulatory provisions provided the Act and its Bye-Laws, the right of an individual to utilise his private land in any manner he may choose has been somewhat restricted. *Uma Shiva Parivar Trust vs. State of Bihar*, 1990 (1) PLJR 503. Development Authority may adopt 'the mode of draw of lots for making allotment of plots of land to applicants, where number of applicants is much more than the available number of plots of land or housing units. If such schemes are made from time to time continuously, there is nothing unfair in Authority asking for payment at the rate prevailing at the time of allotment, option to the allottee to accept or decline the offer. *ODA vs. P.K. Jain*, 1993 (3) SCC 494. A Statutory Authority has no power to review an order, unless the power of review has been conferred upon it expressly or by necessary implication. However all Statutory Tribunals have power of procedural review. *Bigna Ram vs. State of Bihar* (1) PLJR 502. Bihar Regional Development Authority Act, 1974 The Principle of natural justice as a part of procedural law has been applied and extended to quasi-judicial proceedings and administrative matters to ensure that no one is adversely affected without a reasonable opportunity and fair hearing. No order can be passed without hearing a person if it entails civil consequences. *C. R. Awasthi vs. Gyan Devi*, (1995) 2 SCC 325. Affidavit.—A plea of malafide must be clearly alleged and substantiated. Finding of malafide cannot be recorded on vague allegations unsupported by cogent materials. *A. B.A.G.G.A.C.S. Ltd. vs. State of Bihar*, 1995 (i) 64. Legitimate procedure and just treatment is the core of Indian Jurisprudence. The principle of 'legitimate expectations' applies where a person having no enforceable rights is yet affected or is likely to be affected by order passed by Public Authority, *(C. R. Awasthi vs. Gyan Devi)*, (1995) 2 SCC 326. Taxing Statutes.—Taxing Statutes are to be strictly construed. If the subject matter of tax does not fall within the plain language of the taxing provision, no tax can be imposed. *Puri Municipal Council vs. Indian Tobacco Co. Ltd.*, (1996) SCC 293.] 2. Occupations.—in this Act unless the context otherwise requires:— (a) 'amenity' includes road, water-supply, street lighting, drainage, sewerage, public works, housing, play-fields, parks, educational, com-

munity and recreational facilities and such other convenience as the State Government may, by notification in the official Gazette, specify to be an amenity for the purposes of this Act; (b) 'Authority' means the Regional Development Authority constituted under section 3 of the Act; (c) 'building' includes any structure or part of a structure which is intended to be used for residential, industrial, commercial or other purposes whether in actual use or not, and compound wall or fencing thereof; (d) 'building operation' includes erection or re-erection of a building, or any part thereof, roofing or re-roofing of any part of a building, or of any open space, any material alteration or enlargement of a building, any such alteration of a building as is likely to affect an alteration of its drainages or sanitary arrangements or materially affect its security, or the construction of a door opening on any street or land not belonging to the owner. (iii) Sec. 2] Bihar Regional Development Authority Act, 1974 (vii) (f) Chairman' means the Chairman of the Authority; (g) 'development' with its grammatical variations means the carrying out of building, engineering, mining or other operations in or over or on land or the making of any material change in any building or land and includes re-development and layout and subdivision of any land and 'to develop' shall be construed accordingly; (h) 'Development Area' means any area declared to be development area under sub-section (1) of section 8; (i) 'engineering operations' include the formation or laying out of streets (i) (k) (m) (n) (o) (p) (q) (s) or road or means of access to a road or the laying out of means of water-supply, drainage, electricity, gas, transportation and other public utility services; 'Master Plan' means the plan prepared by the Authority under sections 17 and 18; 'Khas Mahal land' means land vested in the State or Bihar; 'Local Authority' means any Municipal Corporation, a local body constituted under Bihar and Orissa Municipal Act, 1992 (B. & O. Act V of 1922) or Panchayat established under the Bihar Panchayati Raj Act (Bihar Act VI of 1948) or any such local body constituted in any region in which this Act applies; means of access' includes any road or means of access, whether private or public, for vehicles or pedestrians; 'Regulation' means a regulation made under this Act by the Regional Development Authority constituted under section 4; 'Rule' means a rule made under this Act by State Government; 'Region' means any area declared as such under sub-section (2) of section 1 or sub-section (1) of section 8; 'Regional Plan' means the plans prepared by the Authority under section 6; 'Vice-Chairman' means the Vice-Chairman of the Authority; 'Zone' means any one of the divisions in which the Development Area may be divided for the purpose of development under this Act; Bihar Regional Development Authority Act, 1974 [Sec. 3 'Zonal Development Plan' means the plans prepared by the Authority under section 19; 'Urban Area' means the standard urban area as defined in the Census Act, 1948. (Census Act 37 of 1948). 'Roofed' means a roofed structure. 'Does not constitute a building.' Sewa Lal Kheria State, BLUR 489. The expression "to erect or re-erect" in relation to any building includes the erection of any part of the exterior walls of the building. 44 Kin vs. State, 1964 BLUR 520. Areas included in the 'Green Belt' according to Master Plan prepared for the region have got to be kept as such be treated as vacant land within the meaning of the provisions of section 2(Q) (j) Doman Paswan State of Bihar, PLJR THE REGIONAL DEVELOPMENT AUTHORITY AND ITS OBJECT The State Government shall, at any time after the commencement of this Act, by notification in the official Gazette, constitute one or more authorities for the purposes of this Act, each authority to be called as Regional Development Authority bearing the name of that Region, (2) The Authority shall be a body corporate by the name of the Region, shall have perpetual succession and a common seal with power to enter into contracts and to acquire, hold and dispose of property both movable and immovable and shall sue and be sued. (3) The Authority shall consist of the following members, namely;— (a) (d) (g) a Chairman, who shall be the Minister of the Urban Development Department of the State of Bihar or any person nominated by the State Government and his tenure shall be generally of three years; Chairman, to be appointed by the State Government; a planning Member shall be the Chief Town Planner, B.H.Z., or his nominee not below the rank of Assistant Town Planner (Ex-officio); two other persons to be nominated by the State Government of whom one shall be a person of administrative or technical experience and the other shall be a social scientist Administrator/Chief Executive Officer of the Municipal Corporation or Executive Officer/Special Officer of the Municipality situated at the Headquarters of the Regional Development Authority; Chairman, Bihar State Housing Board or his nominee who should not be below the rank of Executive Engineer (Ex-officio); more than three members of the Bihar Legislature of the Regional Development Area nominated by the State Government; sec. 3] (j) (k) Bihar Regional Development Authority Act, 1974 Collector or Deputy Development Commissioner-cum-Chief Executive Officer Of

the district, to be nominated by the State Government (Ex-officio); Chief Engineer, Public Health Engineering Department or his nominee not below the rank of Executive Engineer (Ex-officio); Chief Engineer, Public Works Department or his nominee not below the rank of Executive Engineer (Ex-officio); Secretary, Urban Development Department or his nominee not below the rank of Deputy Secretary (Ex-officio). (4) The Vice-Chairman shall be a whole-time Government servant. (5) The Vice-Chairman shall be entitled to receive from the funds of the Authority such salaries and such allowances, if any, and governed by such conditions of service as, may be determined by the rules made in this behalf. (6) Other members specified in clauses (d), (e) and (h) of sub-section (3) may be paid from the funds of the Authority such allowances, if any, as may be granted by the State Government in this behalf. (7) The Chairman, if he is a person nominated by the State Government under clause (a) of sub-section (3) of section 3: and the Vice-Chairman shall hold office during the pleasure of the State Government. (8) Members referred to under clauses (d), (e) and (f) shall hold office for a term of three years from the date of their nomination to the Authority:— Provided that such term shall come to an end as soon as the member ceases to be a member of the body from which he was nominated. (9) A member other than an Ex-officio Member may resign his office by writing, under his hand addressed to the State Government but shall continue in office until his resignation is accepted by that Government. The act or proceedings of the Authority shall be invalid by reason of the existence of any vacancy in defect in or the constitution of the Authority. Comments and case-law: The State Government has the choice in the matter of nomination of Chairman, either to nominate the Minister-in-charge himself or any other person, ordinarily for a term of three years, at the time of constituting a Regional Development Authority. Once this choice or option has been exercised, the power under sub-section (2) (a) of section 3 is exhausted and cannot be re-exercised. The Chairman's appointment cannot be cancelled, exercising the power conferred by section 3 (7). The Chairman cannot be removed from office before the expiry of his term except under the provisions of section 5. R.P. Raja vs. State of Bihar, 1987 275. The doctrine of "pleasure" is merely an empowering one. The exercise of "pleasure" under Article 310 of the Constitution can only be made in the manner indicated in Article of the Constitution and not otherwise. The doctrine of "pleasure" being a service concept, the "pleasure" theory cannot apply to a Chairman of a Regional Development Authority, ibid. The Chairman of a Regional Development Authority is not an employee working for salary. The Chairman is a statutory authority created by the statute and can in no manner be described as a Government servant or an employee of that Regional Development Authority Act, 1974. It is a service concept. There is nothing in the Constitution to extend the doctrine of "pleasure" to non-service person. The State Legislature has no authority to extend the doctrine of "pleasure" to a State. Sub-section (7) of section 3. in so far as it relates to the case of a Chairman of a Regional Development Authority, if the powers conferred by provisions of section 3 (7) are exercised, they will be valid by Article 14 of the Constitution of India. Secs. 4-5 providing for the "pleasure" of the State Government is if/then not controlled by India, as constituting arbitrary, unguided, uncanalised and unbridled power on the State Government. Disqualification for appointment of a member of the Authority shall be disqualification for being appointed as and for being a member of the Authority if (a) (b) (c) has been convicted by a Criminal Court for offence involving moral turpitude, unless such conviction has been set aside: is an applicant to be adjudicated a bankrupt or insolvent, or is an uncertificated bankrupt or undischarged insolvent; has, directly or indirectly, by himself or by any partner, employer or employee any share or interest, any contract or employment with, by or on behalf of the Authority is a director, or a secretary, or a manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Authority: or is of unsound mind. (2) person shall not be disqualified under clause (c) of sub-section (j) or deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with by or on behalf of the Authority by reason only of his being a member of such company. Provided that such person discloses to the Government the nature and extent of the share held by him. The Government may, by notification, remove any member from office— (a) if he has, without the permission of the Authority, been absent from more than three consecutive meetings of the Authority, or (b) if he, being a legal practitioner, acts or appears on behalf of any person other than the Authority in any Civil Criminal or other legal proceeding in which the Authority is interested, either as a party or otherwise, or (c) if it has, in the opinion of the Government, contravened the provisions of section 3 (7), or if he, in the opinion of the Government, had become physically or unable to act as a member: Provided that when the Government

proposes to take action under sub-section (1), (i) an opportunity of explanation shall be given to the member concerned, and no such action shall be taken except after taking into consideration his explanation. •Sec. 3] Bihar Regional Development Authority Act, 1974 (2) A member removed under the foregoing provision shall be eligible for re-election or re-nomination. Comments case-law The State Government has the choice in the matter. of nomination of a member either to nominate the Minister-in-charge himself or any other person, ordinarily for a term of three years, at the time of constituting a Regional Development Authority. Once this choice or option has been exercised, the power under sub-section (2) (a) of section 3 is exhausted and cannot be re-exercised. The Chairman's appointment cannot be cancelled by exercising the power by section 8(7). The Chairman cannot be removed from office before the expiry of the term except under the provisions of section 5. n. R Raja vs. State of Bihar, 1987 PLLJR 275. The doctrine of "pleasure" is merely an empowering one. The exercise of "Pleasure" under Article 54 of the Constitution can only be made in the manner indicated in Article 311 of the Constitution and not otherwise. The doctrine of "Pleasure" being a service concept, the "pleasure" theory cannot apply to Chairman of a Regional Development Authority. *ibid.* 3] e. Staff The Authority shall have a Secretary, to be appointed by the State Government; shall exercise such powers and perform such duties as may be prescribed by regulations or delegated to them by the Authority, or the Chairman. (2) The Authority may, subject to such control and restriction as may be prescribed by rules approved by Government appoint such number of officers and employees (including experts for technical work such as Economic Planner, Transportation Planner, Health and Education Planner, Data Information System Planner) as may be necessary for the efficient performance of its functions and may determine their designation and grades., (3) The and other officers and employees of the Authority shall be entitled to receive from the funds of the Authority such salaries and such allowances if any, and shall be governed by such conditions of service as may be determined by regulations. Provided that appointments to posts with minimum salary of Rs. 500 shall be made on the advice of the Bihar Public Service Commission. The Authority may appoint a person on any post carrying salary above Rs. 500 after approval of the State Government and the total period of such appointment shall in no case exceed six months. (4) The Authority may appoint a consultant on hire to assist in planning and other tasks, provided that in case a consultation fee exceeds rupees five thousand for a consultant prior approval of the State Government shall be necessary. Comments & case-law [Where the statutory rules lay down the requirement of approval of Public Service Commission, it is necessary to follow it. The State Government can direct to terminate (u/s 65) the contract of service where the appointment was made in violation of the above requirement, The High Court will not interfere in such a case. *Parbhat Kumar Mukherjee v. State of Bihar*, 1969 PLJR 56 (SC). Section 6 (3) of the Act only empowers the Authority to appoint the Secretaries. 7-10 Regional Development Authority Act, 1974. is on!} a breathing elbow power given to the Authority to make temporary so that the work of the Development Authority goes on pending recruitment. *Samosh Kumar Verma vs. State of Bihar*, 1997 (2) PLJF-1, 1997 ASC 7. The Authority shall meet at least once a year and there shall not be a gap of more than sixty days between consecutive meetings. 12} The conduct of the meetings, quorum, service of notices, agenda, etc., as prescribed by regulations. of Region and Development Area The State Government may, by notification in the official Gazette, divide the areas for the purposes of this Act by defining their limits, be as (i) Region and (ii) Development Area, for which the Authority shall exercise and carry out development works therein. Provided that no Military Cantonment or any part of its area required for defence purposes shall be included in such areas without the sanction of the Central Government. (Z) The State Government may, by notification in the official Gazette, alter the limits of Region and the Development Area, so as to include therein or therefrom area as may be specified in the notification. g. Plan showing the boundary of the Region and the Development Area established under this section shall be available for inspection in the office of Authority, office of the Collector and Local Authorities concerned. 6.4) for purpose of decentralisation and facility of work the State Government may establish a new Regional Development Authority, whose notified area, wholly overlaps that of an existing Regional Development Authority, the existing Authority may function, with the sanction of the Government, referred for approval of the Authority, so far as it concerns the area overlapping. of? The Authority may constitute Committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons for such purpose or purposes as it may think fit. (2) The Authority shall meet at such time and place and shall observe such rules or procedure in regard to the transaction of its business as may be determined by regulations made in this behalf.

Committee constituted under this section, shall have such duties, re- and powers as may be prescribed by the Authority and its regulations and acts shall be subject to final confirmation of the Authority.

14) The members of a Committee shall be paid such fees and allowances attending its meetings and for attending to any other work of the Authority, may be determined by regulations made in this behalf. If the Authority not to take part in proceedings. A member or person associated with the a member of any Committee who— (a) has directly or indirectly, by himself or any partner, employer or employee, any substantial share or interest in respect of any matter: or (b) has acted professionally, in relation to any matter, on behalf of the Bihar Regional Development Authority Act, 1974 Secs.] shall not vote or take part in any proceeding of the Authority or any Committee relating to such matter. (2) If any member or any person associated with the Authority or member of a Committee appointed under section 9 has, directly or indirectly, any beneficial interest in any land situated in an area comprised in any housing or development scheme framed under this Act or in an area in which is to acquire land for any of the purposes of this Act— Committee inform the person presiding, of the nature of such interest which shall be recorded in the minutes of the meeting, (ii) he shall not take part in any proceeding relating to such area meeting of the Authority or any Committee. (3) Nothing in sub-section (2) shall prevent any member or any person associated with the Authority or any member of a Committee appointed under section 9 from voting on, or taking part in the discussion of, any resolution or question relating to any subject other than a subject referred to in that sub-section. Objects of the Authority.—The objects of the Authority shall be to promote and secure planned development of Region in general and Development Area in particular and for that purpose the Authority shall have the power to acquire, hold, manage and dispose of land and other property, to carry out engineering, industrial, agricultural and other operations, to execute connection with transportation, supply of water and electricity, disposal of sewage, drainage, and other services and amenities and generally to do anything necessary or expedient for such development and for purposes incidental thereto and the Authority shall be the principal agency to provide all infrastructure for the development of the aforesaid areas. Provided that save as specifically provided in this Act nothing contained therein shall be construed as authorising the disregard by the Authority of any law for the time being in force.

CHAPTER RESPONSES, POWERS AND FUNCTIONS OF THE AUTHORITY

12. Responsibility of the Authority for planning and execution schemes. Subject to the provisions of this Act, the Authority shall be responsible for formulation, co-ordination and supervision of the execution of all planning and works relating to the development of area or part thereof and more specifically for— (a) (b) (c) (e) (f) (h) land acquisition and development of land; general improvement works including laying and relaying or, widening the streets, roads and drainage, disposal of sewage; Port reconstitution schemes; Housing Schemes including sub-urban and rural housing; Slum Clearance and Slum Improvement Schemes; Transportation schemes including riverine transport; schemes for supplying essential services like water, cooking gas, electricity, etc; schemes for provision of community facilities like retail and wholesale trade, hospitals educational and cultural institutions, recreation Bihar Regional Development Authority Act, 1974 (i) anti pollution schemes; [Sec. (j) afforestation, gardening or any other schemes for improvement of the environmental conditions; (k) schemes for industrial business and other commercial activities. (2) Subject to the provisions of this Act the Authority may from time to time incur expenditure and undertake development works mentioned in sub-section (1) in the development area. (3) Subject to the provisions of this Act, the Authority shall be responsible for the preparation of a phased programme of development of agriculture: infrastructure and other works essential for the general socio-economic and physical development of rural and urban areas. (4) in particular and without prejudice to the generality of the foregoing functions, the Authority shall also discharge the following functions, namely (i) to specify the development projects for the implementation of which any fund referred to in clause (a) of this sub-section shall, subject to such conditions and restrictions as the Authority may impose, be applied by any Municipal or other authority or body corporate (c) to provide for the setting up of planning information and storage systems which may be updated frequently (d) to perform such other functions as may be prescribed by the State Government. (5) The Authority may, on such terms and conditions as may be agreed upon, take over, the execution of any of the aforesaid schemes on behalf of a local Authority, body corporate, co-operative society, an employer or a Department of the Government.

Comments & [Section 12 with Articles 243VV, 243ZD and 243ZE and Twelfth Schedule of Constitution of India—collapse of habitat

planning—urban planning with people's participation is part of the democracy envisioned in the Constitution. The authorities in Bihar have cleverly kept the mandate of the Constitution away from them—elected representatives have been kept away from development—this is bad legal architecture to retain power which is maintained by the authorities—dated local self governing institutions—Constitution speaks of spatial planning, not construction—space; planning refers to space allocations, the planning of it and reserving these spaces for conforming use of these spaces is an illegality which is incurable—phenomenon of corruption has been rampant. This is misunderstood—Court proposing the setting up of a committee, not independent and composed of professionals whose job will be to plan the area. *n. usha vs. State of Bihar 2002(2) F.L.J.R. 301* may give direction to the Government. Nothing contained in any other law for the time being in force, the Government may give such directions with regard to the implementation of any development project under the Bihar Regional Development Authority Act, 1974 Sec. 14-15 (2) The Authority shall so exercise the powers of supervision sub-section (1) of section 12 as may be necessary to ensure that such development project is executed in the interest of the overall development of the area and in accordance with the approved plan.

14. Power of the Authority to implement schemes of the local body corporate and Government in case where the Authority is satisfied that any direction given by it under sub-section (1) of section 12 with regard to any development project has not been carried out by the local authority, body corporate and other agencies referred therein. Of that any such local authority, body corporate or Government is unable to fully implement any scheme undertaken by it for the development of any part of the area, the Authority may itself undertake any works and incur any expenditure for the execution of such development project or implementation of such scheme, as the case may be, and recover the cost thereof from the local authority, body corporate or any other agency. (2) The Authority may also undertake any works as may be directed by the State Government and may incur such expenditure as may be necessary in the execution of such work. (3) Where any work is undertaken by the Authority under sub-section (1) shall be deemed to have, for the purposes of the execution of such work, all the powers which may be exercised under any law for the time being in force by the Authority referred to in sub-section (1) of section 12. (4) The Authority may, for the purposes of performing the functions mentioned in section 12 and in carrying out the responsibilities conferred by sub-sections (1) and (2), undertake survey of any area within the development area or the Region and for that purpose it shall be empowered for any officer of the Authority (a) to enter upon any land to make survey and to take level of such land; (b) to dig or bore into the sub-soil; (c) to mark levels and boundaries by placing marks and cutting trenches; (d) where the survey cannot be completed, levels cannot be taken and boundaries cannot be marked otherwise, to cut down and clear away any part of any standing crop, fence or jungle; (e) to examine works under construction and to ascertain course of sewers, drains or other utilities. Provided that before entering upon any land the Authority shall give notice of its intention to do so in such manner as may be specified in the regulations made under this Act.

15. Matters to be done in the area: anything contained in any other law for the time being in force, the schemes mentioned in sub-section (1) of section 12 may provide for all or any of the following matters, namely: (a) the acquisition by purchase, exchange, lease or otherwise of any property necessary for or affected by the execution of the scheme; (b) the laying or relaying of any streets or roads comprised in the Bihar Regional Development Authority Act, 1974 Sec. (c) the distribution or redistribution of sites belonging to or the property comprised in the scheme; (d) the construction or demolition of dwellings or portions of dwellings of any type of construction including drains, supply mains, etc. unfit or dangerous for human habitation; and (e) the demolition of obstructive buildings or for portions of buildings or streets or any type of construction. CHAPTER REGIONAL PLAN, MASTER PLAN AND ZONAL DEVELOPMENT PLAN. The Regional Plan—The Authority shall as soon as possible, carry out Regional Socio-Economic and Geographical Surveys and prepare a Regional Plan which shall indicate the manner in which the land of the Region shall be used in broad categories, whether by carrying out thereon development or otherwise, the stages by which any such development is to be carried out, the network of communications and transport, the proposals for conservation and development of natural resources, development of infrastructure for health, education, rural housing, etc and such other matters as are likely to have important influence on the development of the region, and any such plan may provide for any of the matters, or for such of the following matters as the State Government may direct, that is to say: (c) (d) (f) (i) allocation of land for different uses, general distribution and general locations of land, and the extent to which the land

may be used for residential, industrial, commercial or agricultural purposes or for, Government and other offices or as forest or for mineral exploitation; reservation of areas for open spaces, gardens, recreation grounds, zoological gardens, nature reserves, animal sanctuaries, dairies, compost pits and health resorts, transport and communications, such as roads, highways, railways, waterways, canals and airports including their development and tension water supply, drainage, sewerage, sewage disposal and other public utilities, amenities, and services including electricity and gas infrastructure for health, education, rural housing, etc; reservation of site, for new towns, industrial estates/areas and any other large-scale development or project which is required to be undertaken for the proper development of the region or new town; . preservation, conservation and development of areas of natural scenery, forest wild life, natural resources and landscaping; preservation of objects, features, structure or places of historical, natural, architectural or scientific interest and educational; areas required for military and defence purposes preservation of erosion, provision of afforestation or deforestation, improvement and redevelopment for water front areas, rivers and lakes; proposals for irrigation, water-supply and hydro-electric works, flood control and prevention of pollution of river and other sources of water. Sec. 17-18] Bihar Regional Development Authority Act: 1974 (l) shifting of population, or industry from overpopulated and congested areas, and indicating the density of population concentration of industry and other economic activities to be allowed in any area; (m) recommendations to the State Government regarding the direct; to be issued to the local authorities in the region and different departments of the State and Central Government in respect of enforcement and implementation of the proposals contained in the Regional Plan

17. Civil Survey Master Simultaneously with the preparation of the Regional plan or as soon as may be thereafter the Authority may cause, socio-economic and physical survey to be made and prepare a draft for the development area within the basic framework of the Regional Plan.(2) Master Plan for the entire areas or part thereof already approved notified by the State Government under the provisions of the Bihar Public Improvement Trust Act, 1951 (Bihar Act V of 1951) before the commencement of this Act, shall be deemed to have been prepared by the and sanctioned by the State Government under the relevant provisions of that Act, at such time as the Authority modifies the Master Plan or prepares a Master Plan. (3) The draft master plan shall — (a) define the various zones into which the development area is to be divided for the purposes of development and indicate the manner in which the land in each zone is proposed to be used (whether for the carrying out thereon of development or otherwise) and the stages by which any such development shall be carried out, so (b) serve as a basic pattern of framework within which the various development plans for the various zones are to be prepared. Commenced by [Vice-Chairman of PADA directing petitioners to remove the building etc. from the site located in Patna City area as it had been contrary to provisions of sections 23 and 36. As per section 17 (2), the Master Plan of the entire area or part thereof already approved and notified the State Government under the Public Improvement Trust Act to the commencement of the BRDA Act, is to be deemed to have been prepared under the BROA Act. Although as per the provisions of section 24, the Authorities required to revise or alter the Master plan on expiry of every five years, merely because there has been no alteration or revision of the Master plan, it cannot be held that the provisions of the BRDA Act have been rendered redundant. See Krishna Goenka vs. P.R.D.A. 1996 (1) PLJR, 445.] 18. Contents of Master Plan—The draft master plan shall indicate the manner in which the use of land in the development areas shall be regulated, and also indicate the manner in which the development of land therein shall be carried out. In particular, it shall provide so far as may be necessary for all or any of the following matters:—(a) proposals for fixing the use of land for purposes such as residential, industrial, commercial, agricultural, recreational and other uses. (6) (g) (h) (j) (10 Bihar Regional Development Authority Act, 1974 proposals for the fixation of land for public purposes, such as schools, colleges, and other educational institutions, markets, social, welfare and cultural institutions: theatres and places of public entertainment or public assembly, museums, art galleries, religious buildings and other amenities; proposals for designation of open spaces, playgrounds, stadium; gardens, green belts, nature reserves, sanctuaries and dairies; transport and communications such as roads, highways, parkways, railway, waterways, canals and airport, including their extension and development; water-supply, (drainage, sewerage, sewage disposal) other public utilities, amenities and services including electricity and gas; preservation, conservation and development of areas of natural scenery and landscape; preservation of features, structures or places of historical, natural; architectural and scientific interest and educational value; proposals for flood control

and prevention of river pollution; (h) the filling up or reclamation of low lying, swampy or unhealthy areas; (i) the levelling up of lands; proposals for re-development and improvement of existing built up areas; proposals for planning standards and zoning regulations for different zones. Zoned Development simultaneously with the preparation of the Master plan or as soon thereafter as may be, the Authority shall proceed with the preparation of Development Plan for each of the zones into which the development areas may be divided. (2) A Zonal Development Plan may — (a) contain a site plan and land use plan for the development of the zone and show the approximate locations and extents of land uses proposed in the zone for such things as a public building and other public works and utilities, roads, housing, recreation, industry, business, markets, schools, hospitals, public and private open space and other categories of public and private uses; (b) specify the standard of population, density and building density and other norms if required; (c) show every area in the zone which may, in the opinion of the Authority, be required for development or re-development; and (d) in particular, contain provisions regarding all or any of the following matters, namely: (i) the division of any site into plots for the erection of buildings; (ii) the allotment or reservation of lands for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes; (iii) the division of any area into a township or colony and the restrictions and conditions subject to which such development may be carried out; (iv) the erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in buildings and height and character of buildings; (v) the alignment of buildings on any site; (vi) the architectural features of the elevation or frontage of any building to be erected on any site; (vii) the number of residential buildings which may be erected on any plot or site; (viii) the amenities to be provided in relation to any site or building; (ix) such site whether before or after the creation of building and person or institution by whom or at whose expense such amenities are to be provided; (x) the prohibitions or restrictions regarding erection of shops, work shops, warehouses or buildings designed for particular purposes in the locality; (xi) the maintenance of walls, fences, hedges or any other structural constructions and the height at which they shall be maintained; (xii) the restrictions regarding the use of any site for purposes other than erection of building; and any other matter which is necessary for the proper development of the zone or any area thereof according to plan and for preventing buildings being erected haphazardly in such zone or area. 20. Submission of plan to the State Government for the Chapter the word 'Plan' includes the Regional Plan, the Master and the Zonal Development Plan. (2) Every plan shall, as soon as may be after its preparation be submitted by the Authority to the State Government for approval and the State Government may either approve the plan without modifications or with such modifications as it may consider necessary, or reject the plan, with directions to the Authority to prepare a fresh plan on lines which may be indicated.

21. Procedure to be followed in preparing and before preparing any plan finally and submitting it to the State Government for approval the Authority shall prepare a draft Plan and publish it by making a copy thereof available for inspection, and publishing a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice, not being earlier than four months from the publication of the notice. (2) The authority shall after giving adequate opportunity to the concerned persons of being heard and after considering the suggestions, objections and representations, if any, modify the draft plan, if necessary, and submit to the State Government for approval. 22. Publication of Plan and date of its operation.—Immediately after the Regional Plan is approved by the State Government, the State Government shall publish in such manner as may be prescribed by rules, a notice stating that the Regional Plan has been approved, and naming a place where a copy of the Plan is available at reasonable hours, and shall specify therein a date (Gihar Regional Development Authority Act, 1971: Sec. (not being earlier than sixty days from the date of the publication of such notice) or within which the Regional Plan shall come into operation. No person shall on or after the publication of a draft Plan institute, or charge the use of any land covered by the Plan for any purpose other than agriculture, or carry out any development in respect of any such land without the previous permission in writing of the authority. (2) notwithstanding anything contained in any law for the time being in force, the permission referred to in sub-section (i) shall not be granted otherwise than in conformity with the provisions of the Plan. Comments [Reservation for persons whose land was acquired by the authorities for construction of the houses, being allotted to applicants by the Authority, appears

to be. based on sound principles. L. Dhingra vs. State of U.. R, (1987) 2 scc 533. Sub-section (2) of section 23 provides for non-obstante clause, as a result Whereof notwithstanding anything contained any law for the time being in force, any permission for use of any land in terms of sub-section (1) thereof .cannot be granted otherwise than in conformity with the provisions. of the Master Plan. Doman Paswan vs. State of Bihar, 198P., 108 P.JR 968. The Draft Master Plan in respect of Patna which still survives can only be altered or amended in accordance with the provisions of section 24 of the Bihar Regional Development Authority Act. The schemes framed under the Bihar Town Planning Improvement Trust Act should be deemed to have been made under the 3. R: D. Act 1974. The areas shown in the Master Plan as "Green area cannot be utilized for other" purposes. ibid. person going to be affected by order of removal' of encroachment must be asked to produce his title, title and interest over the area, which should be measured by the Government "Amin" and areas not covered by the documents produced by the alleged encroacher alone should be cleared of the encroachment. Affectee party may also have his own "Amin". This procedure is applicable in cases of roadside encroachments and not for deciding inter-se disputes between two private claimants. Kalam vs. State of Bihar, 1989 PLJR 264. Plan.—Development Authority should not seek to charge user of land from "City," forest" or "Green area" in the Master Plan and turn it into residential or commercial area. Supreme Court directing Development Authority in the interest of environment control to maintain the area. in question as City forest area as shown in Master Plan. M L Sud vs. Union of India, 1992 Supp (2) 3CO 123. Once the Draft Master Plan has been published, the provisions of section 23' not only provide restrictions on the right of concerned land-holders about user of land but also place restrictions on the power of the Development Authority to sanction a building plan which is not in conformity with the Draft Master Plan. No land can be permitted to be used for purpose other than that shown in the Plan. Srikrishnapurj Boring Road Vyapari Sangh vs. State of Bihar, 1989 P.JR 418. Tenants in possession not given.—where the Sec. 24 of Bihar Regional Development Authority Act, 1974 Town Planning Scheme in the official Gazette, 'such persons shall be entitled to being provided with suitable accommodation on rent in suitable locality having regard to the nature of their requirement both residential and for business purposes. Mansukh/ a/ Jadhavji vs. Ahmedabad Municipal Corporation, AIR. 1992 SC 752. Development Authority.—Arbitrary enhancement of costs of housing at time of delivery of housing unit to the allottee by the Development Authority open to interference by Development Authority is obnoxious; explain the reasons for disproportionate enhancement of cost at the time of delivery to the allottee. However, where the explanation by the Authority for the enhancement of cost is found to be reasonable, the Supreme Court may refuse to interfere. Indore Development Authority vs. Smt. Sadhna Agrawal, 1995 (1) A' PLF. (SC) 105 . (1995) 3 scc. 1. plat* vehicles.—A Authority is under no obligation to provide land for being used as parking place. Courts can at the most direct Authority to consider need of persons seeking a parking place in a particular area. Cowdation of the City of Bangalore vs. Fuel Lorry Owner & Others As: sociation, AIR 1994 SC 487. and] Improvement and "Permission". Ordinarily the difference between the expressions "approval and "permission" is in the former case the action taken in anticipation of "approval" holds good until it is "disapproved", while in the latter case it does not become effective until the "permission is obtained" from the concerned Government. However, permission subsequently granted may validate the previous action. U. R. Avasthi vs. Vikas Parishad vs. Friends Co-operative Housing Society Ltd. (1995) Supp. (3) SCC 456.] 24- 1) Q- 'fif Comments 8i case-law [in view of section 24 of the Bihar Housing Board. Act, 1982 the decision of the State Government is to be regarded as final in regard to any dispute relating to the Master Plan of 1952. Section 24 gives the authority under the Act the right to alter the plan for any area. Smt. Krishna Singh vs. State of Bihar, 1985 PLJR (NOG) 37. • A. total stranger cannot be permitted to challenge the layout of a Co-operative Housing Society. ibid. Validity of allotment of land to Co-operative Housing Society cannot be assailed again before the High Court when the High Court has already upheld the allotment of that land to the Society in an earlier judgment. Ibid In view of the provisions in section 17, the Master Plan for Patna is still operational. The Supreme Court, therefore, set aside the order of the Patna High Court under Bihar Regional Development Authority Act, Secs: 25-23 and remanded back the matter with certain directions, Smt. Krishna Singh vs. State of Bihar, 1985 PLJR (SC) 105. g. 'Zoning' direction After question of fact-in or -out to get the physical situation clarified, the High Court gave directions to constitute a committee of technical experts as per its directions, and for the implementation of the recommendations of this committee by the P. R. D. A. Smt. Krishna Singh vs. State of Bihar, 1986 PLJR 1062. Master Plan for Patna is operational and has not lost its force after the expiry of the period

fixed by the Government. Section 17 provides that the Plan would be deemed to be in existence till another Master Plan prepared or the present one is altered or modified. *ibid.* Procedures for the formulation of a Master Plan and its subsequent alterations and amendments have been laid down in sections 17 to 24. Any map not appearing to be prepared in accordance with law cannot be described as amended form of Master Plan or an amendment to the Master Plan. *ibid.* Upon completion of Master Plan Development after a Master/Zonal Development plan has been finalised, the Authority shall publish it in such manner as may be prescribed by regulations stating therein the date of its coming into operation.

CHAPTER V ACQUISITION AND DISPOSAL OF LAND. 23. (Compulsory acquisition of it in the opinion of the State Government any land is required for carrying out 'any function of the Authority this Act it shall be deemed to be required for a "public purpose" and the State Government may acquire such land for the authority in accordance with law for the time being in force. (2) Any land either belonging to the State Government or which has been acquired by the State Government for the Authority may be handed over to the authority by the State Government by notification in the official Gazette. Comments & case-law [Acquisition of land for Trust—for the purposes of acquiring land for the machinery of the Land Acquisition Act, 1894, as modified is contained, The Town Planning and Improvement Trust Act, does not exclude the Land Acquisition on the contrary it makes it applicable, but subject to modifications and exceptions. The Master Plan has to designate the land which will be subject to compulsory acquisition by the various authorities therein mentioned including the State Government: *Patna Improvement Trust vs. Smt. Lakshmi* AIR 1979 (SC). Persons whose land or house has been acquired by the Trust Authority are displaced persons'. Such persons are entitled to get a piece of land and claim priority in allotment of a plot at the appropriate time. This being a legal right for settlement of a plot, it follows that a statutory duty has been cast on the Authority and the same can be enforced by a writ of mandamus. *Prem. Shanka Sahay vs. Chairman*, 1982 AIR 185. Principle of determination of compensation payable to owners for the portion of their buildings or lands acquired either under Section 298 or Section 299 of Sec. 27 Bihar Regional Development Authority Act, 1974 compensation shall be confined only to the loss sustained or the expenses incurred by the owner. as a consequence of acquisition of his building or lying within the regular line of the public street. Sub-section (i) of Section as it stands amended, even though specifies the principle of compensation payable for land acquired under either of the Sections 298 or 299 does not require the payment of compensation to be paid. Whereunder, to include the value of land. The amended sub-section, therefore, makes it clear that the payment of value, that is, market value, as compensation for the acquired land is excluded thereunder. Therefore, principle specified in sub-section (i) of Section 299 for determination of compensation payable to the owners for their lands or buildings acquired under either of the Section 298 or Section 299 thereof, does not determine compensation according to market value of such building or land. *Municipal Corporation of Greater Bombay vs. Central Bank of India*, (1934) AIR 690 (Under Bombay Act). For fixing the annual value of the premises, it is the market value of the site and land attached to the house or building which has to be taken note of. Even land taken on lease can have market value. As to what is market value, it is however, a matter which has to be worked out by the authority concerned keeping in view the restrictive clauses of each of the lease deeds, bearing in mind what has been stated in this regard in *Balbir Singh* case. The national market value shall have to be discounted appropriately as the result of subject to which leases were granted, would undoubtedly depress the same. *Allevy Delhi Municipal Committee vs. Gymkhana Club Ltd.* (1994) 3 SCC 498. Since the compensation payable under sub-section (i) of Section of the BMC Act to the owner of the acquired land or building can only be the loss sustained and the expense incurred by the owner because of such acquisition, the compensation should be the amount which is required to be made good to the owner towards reimbursement of his loss sustained, if any, on account of acquisition and his expense incurred, if any, on account of acquisition. times there may not be any loss sustained and sometimes there may not be any expense incurred. At other times, there may be both loss sustained and expense incurred by the owner. Therefore, depending upon a given situation, what should be the compensation payable under that sub-section, has to be determined. Moreover, the requirement of the proviso to the said sub-section also, to be taken into consideration in determining the amount of such compensation. *Municipal Corporation of Greater Bombay vs. Central Bank of India*, 4 SCC 690.] 27.. Disposal of land by the Authority.—The disposal of land belonging to the Authority or

without carrying out development thereon shall be done by the Authority in accordance with the regulations made for the purpose. Comments & case-law [Grant of leases of open space inside a public park to various organisations by the State Government violates every concept of urban planning and discipline of law which requires parks to be preserved as parks. Court may order building constructed inside park to be dismantled. *Arun Kumar vs. Nagar Palika*, 1987 Ail. L.

1038. A Government agency put in possession of certain lands by the State Government for the purpose of developing the land and parcelling the sites and the equality clause cannot be fair 22] Bihar Regional Development Authority Act, 1974 [Sets.28-29 to the purchasers. the Development Authority for unavoidable reasons is not able to deliver possession to the purchasers of allottees of some of the plots of land, it should offer them alternative plots without asking for an exorbitant price. However, the Development Authority cannot be compelled to offer plots at the old price. *Haryana (Haryana Development & Regulation Authority vs. Sunita Rekhi*, 1989 SC 1637. But not in the case of residential plots, where the State Government had issued advertisements for sale of plots of land, stating that if developed plots will be provided, the Supreme Court deprecated the failure to provide fully developed plots even after expiry of many years and directed that possession of fully developed plots be given within months. • Sector 6, Bahadurgarh LP/plot Holders Association vs. State of Haryana, (1996) SCC 485. The Development Authority and State Electricity Board must discharge their statutory liability to provide water and electricity connections to prospective consumers within the area. The High Court may give directions to concerned Authorities to provide the water and/or electric connections in terms of proviso to section 30. *Ranchi Regional Development Authority vs. Ranchi Municipal Corporation* (i) BLJR 572. : 1995 (2) P.J.R 340.] of provisions of the Act.—The Authority may acquire movable or immovable properties by purchase, exchange, gift, lease, mortgage or by any other method permissible under law. Comments [Notice is not required to be served on an occupier of the premises whose name is not entered in Municipal assessment list. It is unreasonable to assume that a duty has been cast upon the Improvement Trust to serve notice on the occupier of the premises even though his name is not entered in the municipal assessment list. A general notice, which would be a notice to all the owners and occupiers of the premises sought to be acquired for the improvement scheme been provided for in Section 46 (of 1951 Act). therefore, does not impose such unreasonable restrictions as to attract the provisions of Article 19 (1) (i) of the Constitution of India. *Shivdev Singh vs. State*, 1968 3 LdR 254 Acquisition of land for purposes of the Act The State Government may acquire land for purposes of this Act by compulsory acquisition under the Land Acquisition Act, 1894 (Act of 1894) : Article (2) If the State Government failed to acquire the land within a period of six months from the date of receipt of the notice, the Master plan or, as the case may be, the Zonal Development plan or the Regional plan shall have effect, after the said six months as if the land were not required to be Sec. 30 23 Bihar Regional Development Authority Act, 1974 CHAPTER DEVELOPMENT OF LAND AND BUILDING CONTROL 30, No development after commencement of this Act permission.—The provisions of this Chapter shall apply to such areas as may be notified by the Authority from time to time. No person or body (excluding a department of Central or State Government or local authority) shall change the use of any land or carry out development on any land without obtaining permission in writing from the Authority: Provided that in the case of a department of Central Government or local authority intending to carry out on any land any development other than those covered by the operational constructions as defined in section 2 (e), the concerned department or local authority, as the case may be, shall in writing to the Authority of its intention to do so giving full particulars there and accompanied by such documents and plans as may be prescribed by State Government from time to time, at least, one month prior to the undertaking of such development; and where Authority has raised any objection in respect of the conformity of the proposed development, either to any development under preparation or to any of the building bye-laws in force at the time, or due to any other material consideration, the department or local authority as the case may be shall— (i) either make necessary modification in the proposals for development to meet the objections raised by the Authority, or (ii) submit the proposals for development together with the objections raised to the Authority to the State Government for decision. Where proposals and objections have been submitted, no development shall be undertaken until the State Government has finally decided on the matter. The State Government on receipt of the proposals for development together with the objections of the Authority shall in consultation with the Development Commissioner either approve the proposals with or without

modifications or direct the concerned department or local authority as the case may be to make such modification in the proposals as they consider necessary in the circumstances: *See Comments and case-law [Chapter VI of the BROA Act provides for 'Development of land and building control'. Terms of the provisions of section 80, an embargo has been put with regard to the development of land by the owner thereof except with the permission of the concerned Authority under the Act. Uma Shyam Parivar Trust State of Bihar, (1) PLJR 603. Enquiry envisaged before amending or revoking the development scheme enquired with the Bihar Regional Development Authority Act, 1974 [Secs. 31-32 hearing extended to citizens. K. Ramdas Shenoy State of Karnataka, #394. supp. (2) SCC 516.] 31. When building the owner of any land, including a local authority, a body corporate constituted under any law and a department of the Government utilities, sells, leases out or otherwise disposes of such land, he shall lay down and make a street or streets giving access and right of way to the owners of plots into which the land may be divided, so as to connect them with an existing public or private street, and also provide other amenities. Comments and case-law [Section 31 provides for the land owners when dealing with land as building sites. Uma Shyam Parivar Trust vs. State of Bihar, 1990 (1) PLJ 503.] 32. Lay-out Before utilising, selling or otherwise dealing with any land under Section 31, the owner thereof shall apply to the Authority in writing with a lay-out plan of the land showing following particulars, namely: (a) the plots into which the land is proposed to be divided for the erection of buildings thereon and the purpose or purposes for which such buildings are to be used; (b) the reservation or allotment of any site for any street, open space, park, recreation ground, schools, markets or any other public purposes; (c) the intended level, direction and width of street or streets; (d) the regular line of street or streets; (e) the arrangements with specification to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining, conserving, scrap- ing and lighting street or streets. Every application under sub-section (f) shall be accompanied by such fee as may be prescribed by regulations: Provided that no such fee shall be necessary in the case of an application made by a department of the Government, a local authority or body corporate. (2) The provisions of this Act and the regulations made thereunder as to the planning standards shall apply in the case of lay-out plan, referred to in sub-section (1) and all the particulars referred to in that sub-section shall be subject to the sanction of the Authority. (3) Within sixty days after the receipt of any application under sub-section (1) the Authority may make such enquiry as it may consider necessary in relation to matter specified in sub-section (2) of Section 19 or in relation to any other shall either accord sanction to the lay-out plan on such conditions as may fit or disallow it or ask for further information. With respect to it. (4) Such sanction shall be refused if the application does not conform to the provisions of this Act, regulation, rules or any plan under this Act. (5) The lay-out plan referred to earlier in this connection, shall, if so required by the Authority be prepared by a Town Planner licensed by the Authorities. Comments and case-law [When any site is reserved for public purpose by the private coloniser, the plan that sees. 33-34 Bihar Regional Development Authority Act, 1974: 4 free-of cost, it would not be proper to stretch public interest to create tight and title over the property. Transfer of ownership to the Development Authority free cost is not permissible under law. Pt. Chet Ram Vashist vs. Municipal Corporation of Delhi (1995) Building Plans. sanctioned according to the building regulations prevailing at the time of sanctioning of such building plans. In case of change in building regulations, the new regulations in force on date of sanctioning of building plan will be applicable. Usman Gani J. Khatri 1/6. Centonmen/ Board, (1992) 3 SCC 455. Town drawing up plan for development of an area, the State Government has complete discretion to draw up development plan without holding public enquiry and providing opportunity of hearing to all persons who may be affected. K. Ramdas Shenoy vs. State of Karnataka, 1994 Supp. (2) SCC 517. Where Municipal land had been earmarked for "open space" for public use, that is to maintain ecology and hygienic environment; the State Government has no power to sanction lease for house construction. Virender Singh & Gath vs. State of Haryana, (1995) 3 SCC 1: 1995 (SC) 105]*

33. Demolition of Section (1) any person lay out or makes reference to in Section 32. Without or otherwise than in conformity with the Authority, the Vice Chairman may whether or not the offender be prosecuted under the Act, by notice— (a) require the offender to show cause in writing and send to the Vice Chairman on or before such date as may be specified in the notice why such street should not be altered to the satisfaction of the Vice-Chairman or, if such alteration be impracticable why such street should not be demolished; or (b) require the offender to appear before the Vice-Chairman and

personally or by a duly authorised agent on such day and at time and place may be specified in the notice and show cause aforesaid. (2) If any person on Whom such notice is served fails to show cause the satisfaction of the Vice-Chairman why such street should not be so altered or demolished, the Vice-Chairman may pass an order directing the alteration or demolition of such street as he may think fit. (3) The cost incurred in this connection shall be recovered from the parties concerned as arrears of land revenue. Power to work to be carried out or to do himself any private survey or part thereof is not reserved. Paved, metalled, flagged, channelled, sewer, drained, conserved or lightened to the satisfaction of the Vice-Chairman he may by notice require the owners of such street or part thereof and the owners of the lands and buildings in front of or abutting on such street or part thereof to carry out any work which in his opinion may be necessary, and within such time as may be specified in such notice. (2) if such work is not carried out within the time specified in the notice the Vice-Chairman may, if he thinks fit, execute it and recover the expenses incurred thereon from the owners referred to in sub-section (1) in such proportion as may be determined by the Vice-Chairman as arrears of tax under this Act. 26] Bihar Regional Development Authority Act, 1974 Sec. 35 Comments case-law [The authorities must ensure that there is sufficient time between the date of advertisement and the date on which auction is to be held. Mere ensuring a higher price than that of the previous auction is not enough. Mere compliance of or issuing advertisement is not enough. The action of Government instrumentalities must not only be Fair but it also must appear to be fair. Ganesh Bhandar vs. The State, 1989 PLJR 209. Section 34 empowers the Vice-Chairman to order work to be carried out or to carry out such work himself in default of the land owner. Uma Shyam Parivar Trust vs. State of Bihar, 1990 (1) PLUR 503.] prohibition building without sanction.—No person shall erect or commence to erect any building, or make any addition or alteration to any building except with the previous sanction of the Vice-Chairman, and in accordance with the provision of this Chapter and the regulations made under this Act: provided that the Authority may make separate sets of regulations for different areas or different kinds of areas. Comments case-law [in case of construction made without obtaining prior-sanction of the controlling authority, the authority has not a requirement of law that the complaint be filed with the controlling authority. State vs. Rajendra Prasad, 1965 BI-JR 620, Restrictions imposed upon a person from making any construction obtaining prior sanction of the Controlling Authority by the provisions of the Act, not in any way restrict the power of the controlling authority itself to grant sanction to a plan even after the construction is made. The exercise of such power of post facto sanction of a plan is not, in any way, inconsistent with the purpose and object of the statute. Mossf. Laxmi Jain vs. R. S. Sohini, 1966 963. Section 35 provides for restrictions upon all persons to erect or commence to erect any building or make any addition or alteration to any building except with the previous sanction of the Vice-Chairman, and in accordance with Chapter VI of this Act and the regulations made thereunder. Dornan Paswan vs. State of Bihar, 1990 PLJR 968. The authorities directed not to demolish such buildings, which have been constructed strictly in accordance with the sanctioned plan. In cases where there is a deviation from the sanctioned plan, the builders to file a detailed representation before the Vice Chairman. The Vice Chairman to hear and pass appropriate orders with reference to the materials on record and also consider regarding grant of post facto sanction, 'With the building byelaws, where deviation has been done from the sanctioned plan. Ravindra Kumar vs. State of Bihar, 1998 (1) PLJR 927. A plan for sanction of construction of a building cannot be refused on the ground of non-submission of documents showing mutation of the land owner. Ajay Jha vs. State of Bihar, 2000 (i) Pt.JR 226. Approval given by the authorities to a plan for construction of a house existing in common between the members of the same family. Bihar Regional Development Authority Sec. 86 | construction in the common area demolition can not be ordered by the The owner of the house directed to file fresh representation before Chairman, PADA for according sanction for the disputed structure along with its compromise petition. (Jrna Jayaswal vs. Chairman 2000 (i) Pt-JR — approval given to petitioner except on the area falling common members of the same family and it was observed that approval for construction on the common area would be given after petitioner has filed a agreement for the common area— order for demolition of such area passed after 'thereafter a compromise petition 'filed—in view of the compromise petition, demolition is not required and V.C. directed to accord his approval after the petition filed his application to;— the same. Uma Jayaswal/ vs. Chairman, PRO/4, 2ac. G (PLJR, 125. Section 35 read with Bye Law 5.3 (v) —a plan for sanction of construction cannot be refused on the ground of non-submission of document showing mutation of the name of the land owner. Krishna Kumar Giri vs. Vice Chairman,

201 (1) PLUR 226. — sanction of Plan for erection, addition or alteration — there is no mention u/s 36 [that the landlord should disclose, while applying for sanction of occupancy by tenants of the portion which is for sanction of plan—word "under any law" u/s 37 has to be read ejusdem generis — non-disclosure of occupancy by tenants in the plan for sanction does not amount to misrepresentation of fact or fraud or eviction of tenant by passing the B.B.C. Act, 1982. Vivek, 40rora '0 Patna Regional Development Authority ZODi (2) POR 798.1 36. Erected 011 maidairtgs, Every person, including local authority body corporate constituted under any law and a department of Central or Government who intends— (a) to carry out a development plan or any other development work (b) to make any addition or alteration thereto, shall apply for sanction (by giving notice in writing of his intention to the Vice-Chairman such form and containing such information as may be prescribed by regulations made in this behalf. Provided that no such sanction need be sought if the alteration is to be done internally in a building without affecting the position of bath-room, kitchen and drainage arrangements and further that the proposed internal alterations do not violate the provisions of the building regulation or planning standards in force. (2) Every such notice shall be accompanied by such particulars and plans as may be prescribed. (3) Every application under sub-section (1) shall be accompanied by such fee as may be prescribed by regulation made in this behalf: Provided further that the operational constructions of the Railway, other Central Government Departments, and Departments of State Government be exempted from the provisions as aforesaid. in respect of other works of Railways, Central Government Department and departments of the State Government such as construction of new line, new buildings, new structures and new installations and reconstruction of existing lines, buildings, structures and installations for both operational purposes and extension of services. permission of the Authority may be granted or rejected [Sec. 36 Bihar Regional Development Authority Act, 1974 by three weeks from the date of receipt of notice or proper application by the applicant for the purpose. In case no order of the Authority is passed and communicated to within the aforesaid time-limit of three weeks at the expiry of the same. Central Government Departments and State Government Departments are free to go ahead with the constructions. In case the Authority has rejected any proposal in respect of Railways, Central Government or any State Government Department contained in the notice or application as aforesaid an appeal shall lie to the State Government if preferred within a period of thirty days. On disposing of such appeal the State Government shall consult the Central Government or the Department, of the State Government as the case may be. (4) Where permission is refused under sub-section (2) of Section 37 the applicant or any person claiming through him shall not be entitled to get refund, the fee paid on the application for permission but the Authority may on an application for refund being made within three months of communications of the refusal, direct refund of such portion of the fee as it may deem proper in the circumstances of the case. (5) The Authority shall keep in such as may be prescribed by regulations a register of applications for permission under this section. (6) The register shall contain such particulars including information as manner in which applications for permission have been, dealt with as may be prescribed by regulations and shall be available for inspection to the public at reasonable hours on payment of such fee, not exceeding five rupees as may be prescribed by regulations. Section 36 provides that every person including authority or body constituted under any law for the time being in force is required to apply for sanction for erection of any building, the provisions are mandatory in character. Doman-Paswan vs. State of Bihar, 1978 38 PLD 968. Requirements of public interest can outweigh the legitimate expectations of private persons and the decision of a public body (such as Development Authority) on that basis in exercise of statutory powers is not assailable. Where Development Authority had changed land use of an area in the Master Plan from "recreational" to "residential" and again from "residential" to the first change by the Development Authority does not give rise to legitimate expectation in a private coloniser of land in the area that he develop a housing colony therein merely because the coloniser had submitted a plan for approval to the Development Authority in cases where grant of approval of such plan is not automatic and the statute permits amendment of Master Plan by change of land use. Ghaziabad Development Authority vs. General Finance (P) Ltd, (1994) SCC 42. Before a space can be held to be a "street" under the Act, there must be a dedication by the owner to the public. In present case the appellant has dedicated the verandah in dispute for public use. It is being used for passing and repassing by the public at large and as such is a "street" within the meaning of Section 3(3)(a) of the Act. The appellant has, thus, surrendered his rights in Sec. 37 of Bihar Regional Development Authority Act, 1974 dedicated to public by the owner for passing and

repassing, paria!cas character ot a 'street" and no ionger remains under the contro! of ihe •The owner has noxight at all times to prevent thC public trom same. When the owner oi l!he property has, by his ovvrt volition pe;rnitted h .property to he converted- into a "street", then he has no right to claim a: compensation when Rhe same property is made a "public street" Se tion 171 (4) of the Act. The "Streets" •are meant iog publié use. is nece sary that the "streets" which are being used by the public are frequently paired and are also saved from public abuse. in the absense of any tory control,' the hawkers and squatters are likely to occupy the "sireet thereby creating nuisance for the publiic. In a situation like ihis it is rece sary for the Committee Io step in and exercise its powers under Section (4) ot the Act. The Committee exercises regulatory control and is respon: ble tor the repair and upkeep of the "public streets". The verandah in di pule is a "street". It has been declared as a "public street" for l!he bett enjoyment ot the public-right. in the said Gtreet, When a "street" is declar as "public street" the owner of the property- comprising the said "sveet" h: no right to claim compensation. Gobind Prasad Jagdish Parsad vs. h!Dl!dt (1993) 4 scc 68. Sections 36 and 37 r/w section 38 —presumptioc of sanction —sanc?ion f a deve!opment pian may or may noi be accorded but .in either case tion is to be given to the applicant and iii case no orders ara passed period of four months, then sanction can be presumed after the lapse of. : days of a reminder which goes unheeded —sections 36 and 37 arg comprehe Sive in nature and are a complete Code— section 38 is a coroliary rather a pt viso to section 37. Rajesh Singh 8uddhpriya vs. Panta Reg. Dev. 2002 (2) PLJR, 263.] 37. Sanction refusal application for erection Oli a addition or alteration thereto The Vice Chairman Shail sanciiion the ere tion of a building or addition or alteration thereto if such ereciion ot (he bui\dil or addition or alteration thereto would not contravene any provision of this any regulation made thereunder. (2) If the proposed erection 'Ob" alteration if\OUid be in contravention' ot al provision of this Act, or any regulation made in this behalf or under any 0th law, sanction of the pian shall be retused. (3) The Vice-Chairman shall communicate the sanction to the person WI has given the notice, and where he refuses the sanction he shall. record a br statement of his reasons for such refusal and communicate the ret:ggal a10! with the reasons thereof to the pc»son who has given the. notice. (4) The sanction or refusal!• lag aforesaid shall be communicaied in sur manner .as may be specified in the regulation made in this beha!t. (5) It at the expiration oi a period of 3 months attter -application under Sc tion 36 has been made to the Vice-Chairman, no order in writing has passed by the Vice-Chairman and no notice ot the order passed by the Vic Chairman, in this connection has been sent to the applicant, the app!icani sh .give a notice undér registered post intimating that sanction shall be presumed nothing to the contray is received or notified in respect .of his application wilt 30 days trom the date ot receipl oi the notice. Bihar Negiona! Deveiopnnei' Authority Åct, 1974 Connrnerot\$ case-iaw [Sec. 3ä {Provisions of sub-section (5) oi section 87 are mandaiöry in nature. The of participation bv a lanci owner in any enquiry con&cied by ari Authority th,æ Act -cannoi bg termed as waiving of the righi of l!he land owner to pro- with the construction after eicpii•y of period of one month's notice giv.eh to. Aegional Development Authority after ii had noi disposed oi the land owner's application for sanctioning cannot suffer for the deiaj/ or laches of authorities the Act. Ūma Shyam Parivar Tus? vs. State oi Bihar 1990 (I) Pi-JR SC}3. 3eciian 37, (5) does not create any r.ioh@ which is being waived. person Bae a right to erect a building On his own land subject, of course, to compliance of existing. Building Regulations. The State merely' provides for ezertaia consequences once the Authority faais io perform his statuory dL'iy i,vPihin the time lip-nit by the Legislature. ibid. Section 37 (5) raises a legal fiction ae a result Whereof the building plan, submitted by the land owner aner the expiry of the period préécibed by the . Legislature, although not expressly sanctioned, would be deemed io have been canciioned. Noid- sanctj011i.—VVWhere the concerned authority had asked far cortain and acditionä! information from the person who had subrnaiëd .a plan" for sanction. and instead of furnishing the additional information, land owneE* had. claimed deemed •sanction on expiry of statutory period for eonction of budding plan, i!he benefit of provision of deemed sanction will not be avai>ble '10 the iand owner. Ansa! Properijes and Industries (P) Ltd. vs. DIDA, supp (1) SOC 61. Sections 37 and 54 —affer a plan is sanctioned by PRDA, it is, incumbent on them to have watch on the construction as to frustrate the design of de- viations ot i!he developers. Ws Saket Housing Ltd. vs. Patna Regional Dev. Avihority, 2003 (4) PLdR,g32.] m;. Sanction act;otcled under at any time after the sanction to ereckian of any building or addition or alteration thereto has been accorded, the Vice-Chairman is satisfied that such sanction was accorded in conseqüence of any material misrepresentation or fraudulent statement contained in notice given or information furnished under Section

87 he. may by order in writing and for reasons to be recorded cancel such sanction and erection of any building or addition or alteration thereto shall be deemed to have been done. It is such sanction : Provided that before making any such order the Vice-Chairman shall give reasonable opportunity to the person affected to explain as to why such order not be made. Comments 81 caselaw [The authority has no power under this provision to cancel pre-ordained building sanctioned by the controlling authority under the earlier Bihar Town Planning and Improvement Trust Act, 1954, Ranchi Club vs. State, 1978 L*BCJ 51-1. Power under Section 38 can only be exercised if application had contained statement later discovered by authority. sec. 39 Bihar Regional Development Authority Act, 1974 Section — withdrawal of sanction—section 38 clothes the Vice-Chairman with the jurisdiction to recall, revoke or cancel the sanction, if the same is outcome of misrepresentation or fraudulent statement or suppression of material facts—section 38 does not say that the question beyond what are provided in section 38 can also be considered by the Vice-Chairman—however, in a case of fraud there is no scope for presumption unless the law permits it—the case which complained to the Vice-Chairman, PADA about pendency of a title suit stay order passed. therein was obligation to prove positively that petitioners had positive knowledge of the pendency of the title suit and the orders passed therein—Vice-Chairman presuming that the petitioners had the knowledge a pendency of suit and stay order without any positive evidence and withdrawal of the sanction acted contrary to law—impugned order set aside. Rajesh Singh; Guddhpriya vs. Patna Reg. Dev. Authority, 2002 (2) PLJR, 263.] 39. Order of stoppage building Where the erection of any building or addition or alteration thereto has been commenced or is being carried on (but has not been completed) without or contrary to the sanction conferred to in Section 37 or in contravention of any condition subject which such sanction has been accorded or in contravention of any provisions this Act, or regulations made thereunder the Vice-Chairman may, in addition any other action that may be taken under this Act, require the person at whose instance the building or the work has been commenced or is being carried on, to stop the same forthwith. (2) If such order is not complied forthwith, the Vice-Chairman may require any police officer to remove such person and all his assistants and workmen from the premises within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly. (3) After the requisition under Sub-section (2) has been complied with Vice-Chairman may if he thinks fit, depute by a written order, a police officer or any officer or other employees of the Authority to watch the premises in order to ensure that the erection of the building or the execution of the work is not continued. (4) Where a police officer or an officer or other employee of the Authority has been deputed under sub-section (3) to watch the premises, the cost of such deputation shall be paid by the person at whose instance such erection or execution is being continued or to whom notice under sub-section (2) has been given and shall be recoverable from such person as an arrear of tax under this Act. Comments 81 caselaw [Where permission to construct Cinema hall was given by appropriate authorities and no serious objection was raised during the construction of the building, it will be against justice to refuse permission to run the Cinema hall where the building is complete or nearly complete. The doctrine of equitable estoppel will apply against the authorities. Ram Chandra Jha vs. State, 1977 BLJR 487 After approval of proposed plan of building by appropriate authority an order of cancellation at permission of construction made without affording an opportunity of hearing to the party concerned is illegal. ibid. The principle is that if the encroachment is less than 5 links, it cannot be held with certainty that there is indeed an encroachment cannot be said to be an inflexible rule of application. Haribansh Singh vs. Basist Kumar, PLJR 370 (FB). Bihar Regional Development Authority Act, 1974 Secs. 40-41 Provisions of sections 39 and 54 read with Rule 6 of Appendix-L of the Bye-laws (as amended by Order No. 75 of 1987 dated 28.2.1987) are attracted to buildings within the territorial jurisdiction of the Authority under the Act, Patch-work, repair or alteration done in an existing building cannot be said to materially effect the external appearance of such a building. The requirement of "set-back" is not applicable in case of houses built prior to enactment of laws prescribing such requirement. It is proper that post facto sanction of the Building Plan be considered by the concerned Authority. S. Dhist Kumar vs. Patna Regional Development Authority 1991 (2) PLJR 398. proceeding under section 39 is maintainable only where the construction is being carried out in contravention of the sanctioned (or deemed sanctioned) plan. Uma Shyam Parivar Trust vs. State of Bihar, 1990 (1) PLGR 503. -KO. DIT Vice-Chairman to alteration of The Vice-Chairman may at any time during the erection of or addition or alteration to any building or at any time within six months after the submission of the application to the Authority as required under regulation framed for the purpose of

a written notice specify any matter in respect of which such erection execution without or contrary to the sanction referred to in Section 37 or is in contravention of any of the provisions of this Act or any regulation made thereunder and require the person gave the notice, under Section 36 or the owner of such building or work either— (a) to make such alterations as may be specified in the said notice the object of bringing the building or work in conformity with the said sanction, condition or provisions, or (b) to show cause why such alterations should not be made, within a period stated in the notice. (2) If the person or the owner does not show cause as aforesaid he shall be bound to make the alterations specified in the notice. (3) If the person or the owner shows cause as aforesaid the Vice-Chairman shall by an order either cancel the notice issued under sub-section (i) or confirm the same subject to such modifications as he thinks fit. *Comments Case-Omrta' (Section 37—building in question alleged to have not made as per the sanctioned plan—direction issued to make certain modification in the building— writ filed against such direction— writ disposed of by permitting the petitioner to file representation which will be disposed of by the authority in accordance with law—no representation filed by the petitioner— authority revived the earlier order when no representation filed by the petitioner—allegation that VC did not consider? The representation which was filed (filed after the order of revival on the same day) no illegality held to have been committed by the authority. *éndramani Devi vs. State of Bihar, 2004 (2) PLJR 467.*] 41. of Banc] and building in of plans.—After the commencement of operation of any of the development plans in a zone no person shall use or permit to be used any land or building in that zone otherwise than in conformity with such plan: Provided that it shall be lawful to continue to use upon such terms and as may be prescribed by regulations made in this behalf any land or Secs. 42-44] Bihar Regional Development Authority 42. Pre-Act permits.—If any building which has been commenced before the commencement of this Act is not wholly completed within the period of three years from the date of such permit, the said permission deemed to have lapsed and fresh permit shall be necessary*

43. Duration of sanction.—The sanction once accorded remain valid; up to three years during which period completion certificate from the architect/engineer or a person approved by Vice-Chairman, in the form in the Building -Regulations shall be submitted and if this is not done the permit shall have to be revalidated before the expiration of period:— on payment of such fees as may be prescribed. Revalidation shall be subject to the regulations then in force. *Comments Case-law [The requirement of section 43 is that Completion Certificate should be presented within three years of the work completed before the expiration of the period of three years, the land owner should apply for revalidation of the sanction. The expression "then in force" used in section 43 should be construed to mean the Rules and Regulation in force when the original sanction was granted and not those Rules and Regulations which are in force at the time making revalidation application. *Narain Jhunjhunwala vs. State of Bihar 1990(1) PLUR 664.* The provisions of section 43 cannot be construed to mean that for one revalidation of sanction, no further order for revalidation of sanction for putting plan is permissible. Revalidation may continue even after expiry of period three years provided. no deviation from the sanctioned plan takes place. The order passed by the Vice-Chairman forbidding further construction on the ground, that revalidation of building plan cannot continue to be operative beyond the period of three years is without jurisdiction and erroneous. *ibid.* The provisions of this section are regulatory in nature, the object being to ensure that the construction is carried on and completed in accordance with the sanctioned plan and within the stipulated period or the period of revalidation. If the construction, alteration or addition has been done in accordance with the sanctioned plan, such construction, alteration or addition will not be illegal notwithstanding the expiry of the stipulated period. Vice Chairman PRDA State of Bihar, 199B (1) PLJR 714.] CHAPTER FINANCE, ACCOUNTS AND AUDIT. 40. The authority shall have and maintain its own fund to which shall be credited— (a) (b) all moneys received by the authority from the State Government from the Central Government by way of grants, loans, advances otherwise, all moneys borrowed by the Authority from sources other than State Government or the Central Government by way of debentures; including betterment taxes and charges. received by the 34] Bihar Regional Development Authority Act, 1974 (c) all moneys received by the Authority from its disposal of lands, buildings and other properties movable and immovable; and (e) all moneys received by the Authority by way of rents and profits or in any other manner or from any other source Provided that the setting up of the Authority will not involve any additional commitment from the Central Government by way of grants, loans, or otherwise. (2) The Authority shall receive duty on certain transfers of immovable property in accordance with the provisions hereinafter in this section*

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appointed by the State Government. (2) The audit shall be made in such manner as may be prescribed by rules. (3) The auditor shall submit his audit report to the Authority, and shall forward a copy thereof to the State Government. Authority shall prepare for every year a report of its activities during that year and, submit the report to the State Government in such form and on or before such date as may be prescribed by rules. Comments and case-law construction.—The proviso to section 54 envisages notice of proposed demolition only to owners and not to individual occupiers or tenants of the illegally constructed premises proposed to be demolished. Srikrishnapuri Boring Road Vrapa/i Sangh vs. State of Bihar, (1) BUR 269 (2) PEJA 488. It is well settled that the High Court in exercise of its writ jurisdiction may not grant relief if that amounts to perpetuating an •Occupiers of unauthorisedly constructed buildings have no locus standi to challenge action of demolition of illegally constructed building. *ibid.*] CHAPTER SUPPLEMENTARY •AND MISCELLANEOUS PROVISIONS Claim for compensation for compensation shall be awarded if and in so far as any property or any right or interest therein is alleged to be injuriously affected by reason of the provisions of this Act or in consequence of the removal of any development work under Section 53. Any person who whether at his own instance or at the instance of any other person or any body (including a local body, body corporate or a Department of Government) undertakes or carries out any development work in contravention of the Regional Development Plan, the District Plan or the Zonal Development Plan, or without the permission, approval or sanction referred to in Sections 35 and 36 or in contravention of any conditions subject to which such permission, approval or sanction • has been granted, shall be punishable with fine which may extend to ten thousand rupees and simple imprisonment for a term of one year and in the case of a continuing offence, with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence. (2) Any person, who uses any land or building in contravention of the provisions of Section or in contravention of any terms or conditions prescribed by regulations under the proviso to that section shall be punishable with fine which Secs. 53-54] Bihar Regional Development Authority Act, 1974 with a further fine which may be up to two hundred and fifty rupees for day during which such offence continues after conviction for the first commission of the offence. (3) Any person who obstructs the entry of a person authorised under the law to enter into or upon any land or building or molests such person after lawful entry shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend up to one thousand rupees or with both. (4) Where such development is not discontinued in pursuance of the order under sub-section (i) the Authority or a duly authorised officer may require any police officer to remove the person by whom the development • has been commenced and all his assistants and workmen from the place & development within such time as may be •specified in the requisition and such police officer shall comply with the requisition accordingly. SQ. Prohibition of water supply and municipal authorities to newly constructed buildings.—Any agency charged with the duty of supplying water and rendering such other services to buildings, or installing facilities in the development area or the •region, shall not give water connection of such other services to any newly constructed building in the •Development area or region or convert for permanent domestic use any connection already taken Unless the application for such connection is accompanied by a certificate of the Authority or the local authority empowered to sanction building plans under this Act: Provided that temporary water connection for non-domestic use may be given if the application accompanied by a plan sanctioned by the Authority. Comments [In terms of section 53 of the Act, it is incumbent upon Municipal Authority and other statutory agencies, which also includes •the Bihar State Electricity Board, to act in conformity with the provisions of section 53 in respect of water supply and or supply electrical power to newly constructed buildings in Municipal areas. The BSEB although governed by the Electricity (Supply) Act, is also bound to obey the command of other local laws such as EIRDA Act. It may give directions to Municipality as well as BSEB to act strictly in accordance with provisions of section 53 in respect of granting new water supply and electric supply connections. 'Ranchi Regional Development Authority vs. Ranchi Municipal Corporation, 1995 (2) PLLIR 340 : 1995 (i) 572. Although the BSEB, while considering application for new electrical connection is governed by Central Acts, It is also incumbent upon the BSEB as well as the concerned Municipal Corporation to act in accordance with the mandatory provisions of section 53 of 3RDA Act in matters relating to giving electrical and water connections to newly constructed buildings. Ranchi Regional Development Authority vs. Ranchi Municipal Corporation, 1995 (2) PLLIR 340.] 54. Under of demolition of Where any

development erection of a building has been commenced or is being carried on or has been completed in contravention of the Regional Plan, Master Plan or Zonal Development Plan or without the permission, approval or sanction referred to in sections 35, 36, 37 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, any officer of the Authority empowered under the Bihar Regional Development Authority Act, [Sec. 54] under this Act, may make an order briefly stating the reasons therefor; directing that ereof or development work shall be removed by demolition, filling or otherwise; and by the owner thereof or by the person at whose instance the erection or development has been commenced or is being carried out or has been completed within a period of thirty days from the date on which a copy of the order of removal has been delivered to the owner or person, as may be in the order, and on his failure to comply with the order, any officer of the Authority may remove or cause to be removed the erection or development and the expenses of such removal shall be from the owner or person at whose instance the erection or development was or being carried out or was completed, as arrears of land revenue. Provided that no such order shall be made unless the owner or the person concerned has been given a reasonable opportunity to show cause why (he or she) should not be made. (2) Any person aggrieved by an order under section (1) may appeal to a Tribunal constituted under this Act against that order within thirty days from the date thereof; and the Tribunal may after hearing the parties in the appeal either dismiss the appeal or reverse or vary the order or any part thereof. The decision of the Tribunal on the appeal shall be subject only to such revision as the High Court may in appeal or revision be entitled to make. The provisions of this section shall be in addition to and not in derogation of other provisions relating to demolition of buildings contained in any law for the time being in force. Comments: The order of the building does not come within the purview of the provision which requires a person concerned to be given notice under section 54 is required to be given before an order under section 54 is passed. Moreover, if the relevant statutory provisions warrant the requirement of prior notice and/or opportunity of hearing the Legislature can provide for their exclusion. Only the owner and builder of an illegal structure which is sought to be demolished can raise objection and put forward such pleas as may be available in law. Private contract between the tenant and the owner cannot override the provisions which justify order of demolition in the larger public interest. *Srikrishnapuri Boring Road Vyapari Sangh vs. State of Bihar*, (1995) 1 PLJR 398. Order of demolition of existing structure cannot be said to be sustainable where the impugned order had been passed on the ground that it was unauthorised but the notice in terms of sub-section (1) of section 54 had been served on a person who was neither the owner nor the person concerned; as the tax payer of the holding on which the allegedly unauthorised structure had been constructed, in the records of the Municipal Corporation. Order being illegal liable to be quashed; however, High Court gave liberty to PRDA to initiate a fresh proceeding and proceed in the matter after proper service of notice in terms of proviso to section 54 (1). *Shyamr/Ghi Singh Vs. State of Bihar*, (2001) 1 PLJR 398. Action under section 54 for demolition can be taken even if a building part had received sanction or deemed sanction if the building plan is not in conformity with the Draft Master Plan or the Master Plan. *Srikrishnapuri Boring Road Vyapari Sangh vs. State of Bihar*, 1995 (1) PLJR 398. The principle of waiver connotes issuance of notice and non-response to. A person who does not make any representation initially on issuance of notice cannot be permitted to turn around, after a Development Scheme reaches finality, as it would amount to putting premium on dilatory and dishonest conduct. *Jaswant Singh Mathura Singh vs. Ahmedabad Municipal Corporation*, 1992 SC 551. The notice contemplated in section 54 is required to be issued only to the owner and not to the tenants occupying the building, as they had no role to play in the erection of the alienating structures. Only the owner is liable to be prosecuted for the illegal structure. The term 'owner' also includes 'the person concerned' for purposes of issue of notice under section 54. The doctrine of reasonable expectation has no application as a private contract between landlord and tenant cannot override the statutory provisions providing for demolition of illegal structures. *Sri Krishnapuri, Boring Road Vyapari Sangh vs. State of Bihar*, 1995 (1) PLJR 41B. Under sub-section (2) of Section 54, any person aggrieved by an order under sub-section (1) of section 54, may

prefer an appeal to the Tribunal constituted under the Act within thirty days from the date of the order. The Tribunal may after hearing the parties either allow or dismiss the appeal or reverse or vary the order or any part thereof. However, once the order of the PRDA has attained finality, the PRDA must give effect to its own earlier order for removal of encroachment from public land. *Suroma Pal vs. Patna Regional Development Authority*, (2) PLJR 372. The High Court deprecated the failure of PRDA authorities to give effect to its earlier order for demolition of unauthorised construction over public land. The High Court also issued a writ of mandamus commanding PRDA to give effect to its own earlier order. *ibid.* unauthorised constructions are demolished on the force of the order of Courts, the illegality is not taken care of fully inasmuch as officers of the statutory body who facilitate the unauthorised construction be made or make illegal allotments should not be allowed to go scot-free. Officers must be punished in accordance with law. *Dr. G. A. Khajuria vs. Dey's Development Authority*; (1995) 5 SCO 762 a large hotel had been constructed proper approval of "building plan" being obtained; and later application of hotel owner for exemption from operation of statutory restrictions allowed at the Chief level after overruling the recommendations of the statutory authorities, the High Court may strike down the grant of exemption as being arbitrary and direct demolition of unauthorised construction. Supreme Court declined to interfere *High [Sec. 54 Bihar Regional Development Authority Act, fig 74 order in exercise of power under Article of the Constitution. Pleasant Stay Motel vs. Faanji Hills Conservation Council*: 1996. (1) PLJR 24 (SC). Before demolition PRDA is to issue general notice to the house owners of the area where it proposes to increase the width of the road. After notice a measurement has to be done and all deeds, maps etc. are to be verified with the records of the party concerned. *Prakash Kumar Singh vs. State of Bihar* 1997 The Director demolition given after final verification sanctioned plan and Boundary Commission in the actual construction work done. Builders are not to object to demolition of such structure or the mere ground on which the building was allowed to be constructed provisionally. *Arun (Onar Ili/under her/age vs. State of Bihar)* 1997 (1) PLJR 369. cases of compoundable deviation in construction: from the sanctioned plan the PROA may exercise its discretion but in cases where the deviation is compoundable the PRDA will not direct the builder not to construct. *Arun Kumar (Vijay/under her/age vs. State of Bihar)* 1997 (1) PLJR 369. A tenant has no locus standi to raise an objection of a demolition of a house on a non sanctioned plan. Only those tenants can raise objection to demolition wherein the construction has been done under the sanctioned plan or where the construction has been made by permission. *Sisil Kumari vs. PRDA*: (3) PLJR 676. Demolition of boundary wall has been done without giving proper and prior notice. Such action of the authority is against the law. Appropriate writ directing the authorities to construct and repair the wall and the boundary or pay cost of construction along with compensation for the mental pain and agony suffered by the petitioner. *Parmolam Pd. Singh vs. State of Bihar* 1997 (1) PLJR 708. The authorities are to remove the illegal construction where the owner does not remove the same. The owners are not liable for any compensation for such demolition. *Patna Branch AG Office Housing Co-op. Society vs. State of Bihar* (1) PLJR 711. There is a difference between a house constructed without a sanctioned plan and one constructed after obtaining sanction. This section empowers for demolition of a building built without permission, approval or sanction of the authorities. The provision does not empower the authority to divest the owners of his house to the State. The order of the authorities to the owners to surrender strips without jurisdiction. *Gauri Shankar Verma vs. State of Bihar*, 1999 (3) PLJR 819. The direction of the authorities to the tenants/shopkeepers to remove their belongings within 72 hours in a case of demolition can not be applied with in case of Durgam: -s. *Vishant Kumar Singh vs. State of Bihar*, 2000 (3) PLJR 243. It is here the authorities or any other statutory bodies to widen the lane the course open are either to persuade the owner to voluntary surrender or acquire the necessary strips of land or on payment of compensation in accordance with *Manorama Devi vs. State of Bihar*, 2000 (1) PLJR, 170. mark on the building by the authorities can not be said Bihar Regional Development Authority Act, 1974 not mere a formality its object is to make the person aware about action to be taken. *Mohan Kumar Singh vs. State of Bihar*, 2000(3) PLJR 243. Putting of the red mark on the building about three years ago and giving no opportunity to explain, action taken holds no meaning in the eyes of law. *Mohan Kumar Singh vs. State of Bihar* 2000 (3) PLJR 243. — where the house has been constructed on the basis of a duly sanctioned plan, it cannot be demolished even if it is situated on a road or lane of width less than 20ft.— Authority if they wish to widen the lane have either to get land from the owner by his voluntary surrender or resort to acquisition paying compensation— no forcible demolition permissible. *Smt. Ananorama Devi vs. State of Bihar*, 2000 PLJR, 170. — a tenant cannot claim hearing by the authority

before passing order of demolition Ws 54. Vivek Arora I/S. Patna Regional Development Authority, 2001 (2) PLUR 798 building plan sanctioned in which existing structure shown set back —existing structure in the occupancy of tenant who were knowing about the plan —demolition order of such portion is valid and cannot be termed as a plea evict the tenant bypassing the B.B.C. Act, Vivek Arora vs. Patna Regional Development Authority, 2001 (2) PLJR 798. — Authority is a creature of the statute —it has a legal obligation perform certain functions specified in the Act, but those functions must be performed in the manner laid down in the Act and all its action must, therefore, conform to the provisions of the Act and it is not free to act beyond the parameters of the statute and in a manner not sanctioned by the statute: *Smt. Sudha Devi vs. State of Bihar*: 2002 (4) PLJR 278 a person who is strictly aggrieved within the meaning of this section, can only seek remedy—petitioner's house not adjacent but separated 4-5 houses held not aggrieved. *Ramesh Chandra Agrawal vs. Patna Regional Dev. Authority*, 2002 (3) PLJR, 801 claim that demolition taken up on Fraser Road on the basis of court's order dt. 17.7.2002 in *Arun Kumar Mukherjee's* case —directions in the Court's order nowhere gave sanction to the Authority to act in a completely lawless manner for the removal of unauthorised constructions — Authority themselves gave assurance to the court that they will start removal of unauthorised constructions immediately and they will proceed with the matter within days— their assurance and court's direction is not even hint that the Authority was free not to follow the procedure prescribed by the law and to act in a manner as it pleases. *Smt. Sudha Devi vs. State of Bihar*, 2002 (4) PLJR 273 notice published in the newspaper fixing the very next day and time the owners at the buildings on Fraser Road to keep ready the map sanctioned for inspection and those not complying or not having sanctioned plans it would be presumed that their structures are unauthorised and action would be taken to remove them —such an action of the Authority does not conform to the provision a reasonable opportunity to show cause is given—no directions of Section 54 — order in writing under sub-section (1) of section 54 passed nor period of thirty days to take the order in appeal given —no reasonable opportunity to show Bihar Regional Development Authority Act, 1 (274) naturally include a proper notice to the concerned person u/s 67— a general notice does not meet the requirement Ws 54 as per which a proceeding can be initiated on the basis of a notice addressed to the concerned individual owner / occupier—therefore, a public notice cannot be said to be an effective substitute for an individual notice— however, instantly even the statutory provision for issuance of a public notice (u/s 68) (for other matters and not for a proceeding 54) was not properly complied with. *Smt. Sudha Devi vs. State of Bihar*, 2002 (4) PLJR 278 Section 64 r/w proviso 2 of Modified Building Bye Laws— multi-storeyed apartment constructed after making major deviation from the sanction plan— against sanction to build up to the height of 6 floors, construction was made up to the height of nine floors— the provisions made in the bye laws either about floor area ratio or the area and height limitations are not without significance — these provisions have been made after taking into consideration various factors like density of population, state of availability of infrastructure and also potential for development— the front set back available instantly is sufficient only for a height of 21.0 mt. while the construction of the building had been made more than 31 mt. for which front set back was inadequate —the deviation of 10 ft. cannot be met by acquiring adjacent land since the front and side setbacks the building would not change even on obtaining land to rear of the building in question —impugned order for depositing condonation/compounding fee and also to remove deviations 4 meet shortfalls upheld. *Ws Saket Housing vs. Patna Regional Dev. Authority*, PLJR, 832 Section 54 r/w proviso 10.2 of Modified Building Bye Laws— construction of multi-storeyed building made after making major deviation from the sanction plan — proviso 10.2 of the bye laws would not give protection from demolition of the portion of the building beyond sanction plan since the provision is applicable only in case where there has been minor deviations. *M/s Saket Housing Ltd. vs. Patna Regional Dev. Authority*, 2003 (4) PLJR, 832 — demolition of portion beyond sanction plan of a multi-storeyed apartment constructed after making major deviation from the sanction plan —allottees of the apartment have no vested right in the matter and their interest are directly linked with the builder — even considered otherwise, if the structures have been illegally constructed and order Ws 54 of the Act is justified, it makes no difference whether the premises are self occupied or are tenanted premises. *M/s Saket Housing Ltd. vs. Patna Regional Dev. Authority*, 2003 (4) PLJR, 3321] 513. It is held that the person committing an offence under this Act is a company. every person, who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and

shall be liable to be proceeded against and punished accordingly. Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1) where an offence has been committed by a company and it is proved that the Secretary, 56-B Bihar Regional Development Authority Act, 1974 to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.—For the purposes of this section (a) 'company' means, a body corporate and includes a firm or other association of individuals; and (b) 'director' in relation to a firm means a partner in the firm. Comments case-law [Director, Chairman or General Manager of a Company or Partner of a Firm are vicariously liable for the offence committed by the Company or Firm unless he or they establish their innocence. Mahmud Ali vs. State of Bihar, 1985 3 123 (FB). Burden of proof is on the Director, Chairman or General Manager of the prosecuted Company or Partner of prosecuted Firm to establish their personal innocence. Badri Prasad Gupta vs. State of Bihar, 1986 PLJR 246 (FED.) 56. When the local authority is paid to the Authority.—All fines realised in connection with prosecution under this Act shall be paid into the funds of the Authority

57. Composition of Any offence made punishable by or under this Act may, either before or after the institution of proceedings, be compounded by the authority or any person authorised by (the authority by general or special order in this behalf.)

(2) Where an offence has been compounded, the offender if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded. 5B. Direction to the owner or other persons to provide amenities. If the authority to provide amenities itself and recover the authority after holding a local enquiry or upon report from any of its or other information in its possession, is satisfied that any amenity which, in the opinion of the Authority, is to be provided for any land in a development area or any area other than a development area, has not been provided for such land or that any development of the land for which permission, approval or sanction has been obtained under this Act has not been carried out, it may, after affording a reasonable opportunity to show cause, serve upon the owner of the land or upon the person responsible for providing the amenity or carrying out the development, as the case may be, a notice requiring him to provide the amenity or carry out the development within such time as may be specified in the notice. (2) If any such amenity is not provided or any such development is not carried out within the time specified in the notice, then the authority may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it may deem fit. Provided that before taking any action under this sub-section the authority shall afford reasonable opportunity to the owner of the land or to the person responsible for providing the amenity or carry out the development to show cause as to why such action should not be taken. (3) All expenses incurred by the authority or the agency employed by it in providing the amenity or carrying out the development, together with interest thereon, shall be recovered from the owner or the person responsible for providing the amenity or carrying out the development as arrears of revenue. 39. Power of authority to require local authority to take over maintenance. When the scheme within the frame of the Master Plan or the Zonal Development Plan or Regional Development Plan has been completed by the authority, the authority may, by a written notice, ask the local authority to take over maintenance of roads, parks, amenities and of the sewerage, drainage, water-supply, lighting and conservancy systems of any other urban or agricultural infrastructure comprised within the scheme and, if the local authority fails, comply with the notice within one year of the date of the service of such notice, such roads, etc. and system shall be deemed to have vested in the local authority. Thereupon be responsible for the maintenance of such roads, etc. and systems. (2) If any difference of opinion arises between the authority and the local authority in respect of any matter referred to in sub-section (1) the matter shall be referred to the State Government whose decision thereon shall be final. (30. authority to levy betterment Where, in the opinion of the authority, as a consequence of any development having been executed the authority, in any development area, the value of any property in that area or in any area other than the development area which has been benefited by the development has increased or will increase, the authority shall, with the consent of State Government, be entitled to levy upon the owner of the property of any person having an interest therein a betterment charge in respect of the

increased of the property resulting from the execution of the development: Provided that no betterment charge shall be levied in respect of lands owned by the Government, a local body or body corporate within the development area of the authority; Provided further that where any land belonging to (the Government, a local authority or a body corporate has been let out by the Government, the local authority or the body corporate to any person, then that land and any building situated thereon shall be subject to a betterment charge under this section. (2) Such betterment charge shall be an amount in respect of any property situated in a development area, equal to one third, and in respect of the property situated in any other area not exceeding one-third of the amount by which the value of the property on the completion of the execution of the development scheme estimated as if the property where cost of building exceeds the value of the property prior to such execution estimated in like manner: Provided that in levying betterment charge on any property under clause (2), the authority shall have regard to the extent and nature of benefit accruing to the property from the development and such other factors as may be prescribed by rules made in this behalf. Comments case-law [Development Authority may charge allottee of land or housing unit the price prevailing on the date of communication of the letter of allotment. It is allowed. Secs- 61-62] Bihar Regional Development Authority Act, 1974 45 Though the regulations and bye-laws in respect of buildings, are meant to serve the public interest, but at the same time it cannot be held that in all circumstances the authorities entrusted with the demolition of unauthorised constructions have exclusive power to the absolute exclusion of the power of the court. In some special cases where "jurisdictional error" on the part of the corporation is established, a suit shall be maintainable. Accordingly (1) The court should not ordinarily entertain a suit in connection the proceedings initiated for demolition, by the Commissioner, in terms of Section 343 (1) of the Corporation Act. The court should direct the persons aggrieved to pursue the remedy before the appellate tribunal and then before the administrator in accordance with the provisions of the said Act. (2) The court should entertain a suit questioning the validity of an order passed under Section 343 of the Act, only if the court is of prima facie opinion that the order is nullity in the eyes of law because of any "jurisdictional error" in exercise of the power by the Commissioner or that the order is outside the Act. Shiv Kumar Chadha. vs. Municipal Corporation of Dehra Dun, (1993) 3 SCC 161.] 61. Assessment of betterment charge by When it appears to the authority that any particular development scheme is sufficiently advanced to enable the amount of the betterment charge to be determined, the authority may by an order made in this behalf, declare that for the purpose of determining the betterment charge the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or any person having an interest therein that the authority proposes to assess the amount of the betterment charge in respect of the property under Section 69, (2) The authority shall then assess the amount of betterment charge payable by the person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of the receipt of the notice in writing of such assessment from the authority, inform the authority by a declaration in writing that he accepts the assessment or dissents from it. (3) When the assessment proposed by the authority is accepted by the person concerned within the period specified in sub-section (2) such assessment shall be final. (4) if the person concerned, does not agree with the assessment or does not furnish the required information within the specified period under sub-section (2), the cost shall be determined by the Tribunal in the manner provided in Section 61. Comments A case-law [The expression "shall be heard" means granting an opportunity of personal hearing to an assessee and not merely allowing the presenting of a written application to be considered by the members of the Review committee in assessee's absence. Jaynarayan Prasad Jaiswal vs. Commissioner of Ranchi Municipality, 1986 PLJR 943.] 32. Settlement of betterment charges By the For the determination of the matter, referred to in sub-section (4) of Section 69 the Authority shall refer the matter to the Tribunal or Appeal as specified in Section 69. Secs: 63-67 Bihar Regional Development Authority Act: 1974 46] (2) The Tribunal shall follow such procedure as may be prescribed by rules made in this behalf. betterment The betterment Charge levied under this Act shall be payable in such number of instalments and such instalments shall be payable at such time and in such manner as may be fixed by regulations made in this behalf. (?) Any amount of betterment charge shall be recoverable as an arrear of tax and revenue. or as money to local authority. Any money due to the Authority on account of fees or charges or proceeds of disposal of lands, buildings or other properties moveable immovable or by way of rents and profits may, if the mode of recovery thereon is not expressly provided for in any other provision of this Act be recovered by the

Authority as charge of land revenue. (2) The Authority shall be deemed to be a local authority within the meaning of the Bihar and Orissa General Clauses Act, 1917 (B. C. Act of 1917) for the purposes of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947 (Bihar Act of 1947) the Bihar Money-Lenders Act, 1938 (Bihar Act of 1938) and the Bihar and Orissa Local Fund Audit Act, 1925 (Bihar Act of 1925) and the Bihar Allotment Loans Act, 1914 (Central Act IX of 1914). State The State Government may set aside any resolution of the Authority or any order of the Authority, the Chairman, the Vice-Chairman or any officer of the Authority, in the opinion of the State Government the resolution or order is in excess of the power conferred by law. (2) The State Government may issue direction to the Authority, on matters of general policy. Comments case-law [Government is bound to act in accordance with principles of natural justice before exercising its statutory power to set aside any resolution of the Trust or an order of the Chairman of the trust. A notice has to be given by the Authority to a person who is prejudicially affected by the order which is ultimately made. *Surya Vijay Singh vs. State of Bihar*, BLJR 1066: AIR 1970 Pat. 213.] F29fcwchs.—The Authority shall furnish to the State Government such reports, returns and other informations as that Government may, from time to time, require. 67. of notice, etc.—Every notice, order or other document required by this Act or any rule or regulation made thereunder shall be signed by the Secretary of the Authority with its common seal and be deemed to have been duly served upon the party or parties concerned if the service has been effected in any one of the following manners (i) By personal service. (ii) By registered post (iii) By affixing it at the house or the principal place of business of the party concerned as the case may be. Now Act 4 of 1983. Bihar Regional Development Authority Act, 1974 Secs. 68-73 (iv) By publication in one prominent Hindi and one English daily newspaper published within the area the Authority in their two consecutive issues. Provided that (a) In case the party to be served is a registered company, a firm or partnership, a body corporate, a local authority, a society body, it shall be served upon the principal officer of the said organisation as determined by the Secretary of the Authority in discretion and it shall then be deemed to have been duly served on each director, partner or member of the said firm or organisation, (b) in case the party to be served is a minor or a lunatic it shall be served upon his guardian as determined by the Secretary of the Authority in his discretion (c) the manner of service mentioned either in sub-clause (i) or sub-clause (ii) above shall be resorted to only after attempt at service either under sub-clause (i) or sub-clause (ii) has failed

69. Public notice to be given by the Secretary and published in the local copies by beat drum, by publication in local English and Hindi dailies, public notice given under this Act shall be in writing under the signature of the Secretary of the Authority with its common seal and shall be caused to be widely known in the locality affected thereby affixing copies thereof at conspicuous public places within the said locality and by publishing the same by beat of drum and also in one prominent local English and one Hindi daily newspaper in their three consecutive issues. Comments case-law [Mere absence of advertisement without any denial of the contract by the authority would not make the suit defective at the instance of an outsider and, the plea of absence of advertisement. Absence of advertisement is only a procedural omission which would not make the contract defective as it will be presumed that official act has been properly done. *Bishwanath Prasad Verma vs. Bhaulrai Pandey* 1982 Pi-JR 424 : 1982 BLJR 403.] 69. Notices, etc. to 'fix reasonable any notice, order or other document issued or made under this Act or any rule or regulation made thereunder require anything to be done for the doing of which no time has been fixed in this Act or the rule or regulation, the notice, order or other document shall specify a time not less than one week for doing the same

70. Authentication of orders and documents of the permissions, orders, decisions, notices and other documents of the authority shall be authenticated by the signature of the Secretary to the Authority or any other officer authorised by the Authority in his behalf. 71. Officers and servants to public servants.—Every member and every officer and other employee of the authority shall be deemed to be a servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860.) 72. Jurisdiction of civil courts.—No court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act. 73. Sanction for prosecution.—No prosecution for any offence punishable under this Act, shall be instituted except with the previous sanction of the Authority or the Chairman or any officer authorised by the Authority or the Chairmen. Secs. 74-77 Bihar Regional Development Authority Act, 1974 43] [No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction

sanction of the authority or the Chairman or any other officer authorized by the authority or the Chairman on its behalf. Any provision launched without sanction is not maintainable and the judgment and the sanction if passed is fit to be set aside. *Mohan Thakur vs. The State of Bihar* (3) 383. —fixing of pay of the employees of the Authority—80 and 81—control; of State Government over the Authority—wide and pervasive and it be difficult for Authority to take independent decision contrary to the decision—however, in the matter of the pay and directions of the Government scale, the Act vests power in the Authority to make regulation—there is no restriction to the exercise of this regulation making power except that the regulations must be consistent with the Act and the rules made thereunder—if the Act vests power in the Authority to frame such regulations then merely because part of its fund comprise of grants etc. from the Government, would not make it dependent on Government so as to be bound by its directive regarding pay scale. *Pramod Kumar Singh vs. P.R.D.A.* 2002 (4) PLJ 617. 74. No action taken in faith—No suit, prosecution, or other legal proceeding shall lie against any person for anything which is in good faith or intended to be done under this Act or any rule or regulation made thereunder. Comments & note:—this provision does not protect a person who knowingly contravenes provisions of the Act. A person who persists in erecting a wall in spite of protests from Trust employees cannot be said to be acting in good faith. *Akin Nandi vs. State*, BLJR 520, to delegate.—'The authority may, by notification in the official Gazette, declare that any power exercisable by it or any of its officers under this Act, except the power to make regulations, may also be exercised by such officer or local authority (or Committee constituted under section 9) as may be mentioned therein in such cases and subject to such conditions, if any: as may be specified therein. 76. of other provisions of this Act, and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law. (2) Notwithstanding anything contained in any such other development plan or any area in accordance with the provisions of this Act or rules and regulations made thereunder shall not be deemed to be unlawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has not been obtained

77. Enforcement of power of a authority to make regulations respect OIT matters.—Notwithstanding anything contained in any law for the time being in force, no rule, regulation or bye-law which is inconsistent with any provision of the Act or any rule or regulation made under sub-section (2) of Section Bihar Regional Development Authority Act, 1974. Secs. 78-79. 79. Notice to be given to suits. (1) A suit shall be instituted against the Authority or any member thereof or any of its officers or other employees of any person acting under the directions of the Authority or any member or any Officer or other employee of the in respect of any action purporting to have been done in pursuance of this Act or any rule or regulation made thereunder within the expiration of two months from the date on which notice in writing has been given in the case of the Authority, if at the office or place of abode, of the to be and unless such notice states explicitly the cause of action, the nature of relief sought, the amount of compensation claimed and the name and place of residence of the intending plaintiff and unless the plaint contains a statement that such notice has been so given or delivered. (2) No suit such as is described in sub-section (1) shall be deemed to apply a suit in which the only relief claimed is an injunction of which the object would be defeated by giving of the notice or the postponement of the institution of the suit. Comments case-law [Dispute over title and possession of land—a bonafide buyer protected from an Improvement Trust is not required to prove that the property offered for sale by the Authority belonged to the authority concerned. The burden lies on the party who claims title and/or possession over the property and that burden has to be discharged by that party. *Fajiswaoath Prasad Verma vs. [Shagwa:] Pandey* 1982 PLJR 424 ; 1982 at-JR 403. Right to notice is mandatory in nature, but it is always open to the authority concerned to waive its right to such notice. However, this does not afford any protection to any body else except the authority concerned and this plea cannot be raised by any other party on behalf of the concerned authority, if it chooses not to offer any challenge, in this regard *ibid.*] 79. Act not to apply to works which affect interior of building but do not materially affect its appearance and carried out by authority or corporation of the Government relating repairing or drains, sewers, mains, pipes, cables; in this Act shall apply to— (c) the carrying out of work to the maintenance, improvement or other alteration of any building being works which affect only the interior of the building or which do not materially affect the

enema! ap- pearance of the building: the carrying out by any local authority or body corporate or by any department of Government of any work for the purpose of inspecting, repairing or renewing any drains, sewers, main pipes, cables or other apparatus including the breaking open of any street or other land for that purposes; the erection of a place of worship or a tomb or cenotaph or other building enclosing a graveyard, place of worship, cenotaph or samadhi on land which at commencement of this Act is lawfully occupied; Regional Development 1974 sec. 80 for the purpose of such worship, tombs, cenotaph, graveyard or samadhi. Provided that the proposed erection and works conform to the local proposals contained in the area and the plans standard set back, height of the structures and percentage of built up area prescribed in the regulations; (b) the excavations made for the ordinary course of agricultural operations; (c) the construction of unmetalled road intended to give access to land solely for agricultural purpose. 31. (1) The State Government may, by notification in the Gazette, make rules to carry out the purposes of Act. (2) Without prejudice to the generality of the foregoing power, such rules provide for— (a) or any of the following namely— (b) (c) (e) (c) the manner of constitution and appointment of members; the salaries, allowances and conditions of service of the whole-time paid members of the Authority; the stage by which the development of any particular features of a zone may be carried out; form and content of the Regional Plan, Master Plan and Zonal Development Plan and the procedure to be followed in connection with the preparation, submission and approval of such plans and the form, and the manner of publication of the notice relating to any such plan in draft; the form and manner in which notice under Sections 21, 22 and 24 shall be published; the fee to be paid on an application for permission under sub-section (3) of Section 36 and the factors and circumstances to be taken into consideration in determining such fee; the manner in which Khasmahal lands shall be dealt with and development; the procedure to be observed by the Tribunal under Section 61; the factors to be taken into consideration in determining the rates of betterment charges in respect of property situated in any area; the procedure to be followed by the Tribunal in the determination of the betterment charges; the sum of money that may be kept in current account; the procedure to be followed for borrowing moneys by way of loans, debentures and their repayment; the form of the budget of the Authority and the form of preparing the annual balance-sheet and statement of accounts; the form of the annual report and the date on which it shall be laid before the House; (p) (q) Bihar Regional Development Authority Act, 1974 the manner of constitution of the pension funds provided for whole-time paid members and officers and other employees of the Authority and the conditions subject to which such funds may be constituted; any other matter which is required to be or may be prescribed by rules. (3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session, for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before expiry of the session in which it is so laid or the session immediately following, both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall nevertheless have effect only in such modified form or no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule. Power to make regulations.—The Authority may make regulations consistent with this Act and the rules made thereunder, to carry out the purpose of this Act and without prejudice to the generality of the foregoing power, such regulations may provide for— (a) (b) (c) (d) (f) (g) (h) (j) (k) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held; the conduct of business at such meetings and number of members necessary to form a quorum thereat; the summoning and holding of meetings of the committee constituted under Section 9, the time and place where such meetings are to be held, the number of members necessary to form a quorum thereat and the fees and allowances payable to members (or attending the meetings or any other work of the Authority); the powers and duties of officers of the Authority; the salaries, allowances, gratuities and conditions of service of the officers and employees of the Authority and disciplinary matters relating to them; the procedure for carrying out of the functions of the Authority under Chapter III, IV and V the manner of communicating the grounds of refusal of development; the form of the register of application for permission and the particulars to be contained in such register; the management of the properties of the Authority; the time and manner of payment of betterment charges; planning standards, prescribing the building regulation, set backs, specifications, coverage, height restrictions, etc.; and any other matter

which is required to be, Or be prescribed by regu- 52 Bihar Regional Development Authority Act, 1974
sacs

CHAPTER IX DAMAGES, LEGAL PROCEEDINGS AND TRIBUNAL payable Efterr termination Any person who, without any right 01" written permission of the Authority, continues in possession Di a building or any part thereof belonging to the Authori!y after termination oi his tenancy in roepect to it' shall be ijable to pay damage at a rate •equai to ihrea timee the rate of rent payable immediatiely before tile termination ot the tenancy unjil deâjvgr.y Di possession of the building to iho• Authority. (2) Any person who, withoua any right written permission of the.Au thority, continues in possession oi vacant land of the Authority after termina- oftlis tenancy in respeci of it be liable •to pay damage the oi Rs. -IO per one hundrgd square meter, per day until delivery oi possession 011 the vacant land to the Authority. by trespasser—Any person who takes posses- Sion of any land or building of the Authority without any right or written per- mission ot the Authority Shal! be liable to pay damage at lhe rate of Rs. 20 per one hundred square meter per day in the case of land and Rs. 30 per one. hundred squarer meter per floor per day in the case of a building. of su[b]letting ag)ainsti• ijhe off the ten- ant sublets the building or any part of it in contravention of the terms of the tenancy, his tenancy Shal! stand terminated with effect trbm the date of sub- ancl both the ienar;t and the sub-tenant Shail be fiable to pay dam- ages jointly and separately to the Authority at a rate equaj to three times the rate oi rent payable for the building immediataEy,' before the termination until delivery oi possession of the building or the part thereof to the Authority, 8.5. recovery of or hildiLtiirnGl and for damages up to the delivery to tfroe in the nnanner in 112 Civil Whenever any suit is instituted for recovery of land or building in possession of any person vvithou/ right, auithority or written permission oi the Authority and for damages the COLjrt shal! pass a. decree for damages up to the date ot recovery of possession ot •the !and Or the building,. as the case may be, and the. damages shaft be calculated in the manner laid down in Order 20, Rule 12 of the Civit Procedure Code, -1908. •n 83 34 * SOG. 85 Bihar Regional Development Authority Act, 1974 Comments case-lavv oii the lanci in. question has been kept reserved "Public or semi-public- purpose" under a comprehensive Development Plan the Municipai Corporation the proposal to ieese it for commercial purposes and benefit of a Registered Society cannot be said to be proper. The gram oi lease to a private organisation will be bad in law. H. Kashinath vs. Stata of Karnataka, 1995 (2) Ai! PLR (SC) -332. Where the Development Authority had neither refused to grant pert-nis- Sion for sage to the Aitottce nor taken any steps for exercising its option Io. resume the housing unit in terms •Qi Rule 20 ot PADA (Disposal ot fiand) Rules, 1978 ior over three years after filing of application for sale and issu- ing a I,'No dues certificate" to the owner, it will amount to an implied ljaiver Oi the right for ihe exercise of option Io resume the property. The sale of the housing unit cannot be said to be in breach of lease or any statutory provision: The buyer from the iessee cannot be said to be a trespasser. or liable to be evicted. However, the transferee is not entii!ed to make any un- authorised construction. Sanjay Kumar Singh vs. PRDA, -i 9g5 (1) Alt PLR 338 : 1995 (2) Pi-JR i4T7i, QQ. fÉfiét 41 Bihar Regiona! Development Authority Act, i 974 Sees. 8€-88 t,ase-lavv [Vice-Chairman of Deveopment Au{horjty has power get tha encroach- ment regnoved even without any prior notice and permit the taking of heip oi police for the. !/Where eviction notice was. issued following passing of order of eviction: ii cannot be contended that the rtcRico raust also furnish all Of encroachment and defaults rnade lb),' the aileged Encroacher. The High Court also rejected the conteniion• that the act:ion of Development. in havingq; the uvrit petitioners forcibly evicted amounted to an infrac- oi thei} " •right to livelihood guarantee6 undar Article 2i of the Oonstiiu- Krishna Kumar Sinha vs. State of Bihar, -{998(2) PLJR 481.1 payat:fte certain anything io contrary co.n9ained ia the Court-Fees Act, 1870 (VII of 1870), in its appli- cation to the State Ot Bihac the fee payable by the Authority in respect to foiiiovving suits and appeals arising therefrom shall be fifteen rupees frie- spective of the of the suit and lhe claim— (a) far declaration of title; (c) ior of title and recovery of possession of rnovabia or jmyvuovable property; toy recovery of rents, profiüs, damages, compensation charges other sums; for eviction and Fecovery oi irnmouäbie property and damages, compensation and mesne profite or cents, past and iLitwo; fot• i"junction imposed by the !ndian Stamp Act, modified from timo to in application: to the Sia?? ot Bihar) not being payable in casa of documents mcecutect by registered co-operative societies, .the question oi . increase stamp duty in accordance with Section 83 on value ot property 'Noes not arise, CD-opera?ive House Construction Society vs. SEE, 1977 76.] lb} c.oa.nrt pass interim• or- and issue Whenever any suit for. injunc- tion _to restrain any person from doing an act on land or buiiding Qi the Au- thority which he

is not entitled or permitted to do is instituted, the Court shall on application by the Authority, pass an interim order of injunction restraining the person from doing that act and shall issue a notice calling upon him to show cause why it should not be made absolute in the disposal of the suit and after hearing the parties pass such order as it thinks fit, and all provisions of Order 39 of the 'Civil Procedure Code, 1908' shall apply to the order. (6) Chairman to institution, of appeal retaining legal Vice-Chairman may, on behalf of the Authority and subject to control by it.— (b) institute, defend or withdraw from legal proceedings under this or any rule or regulation made thereunder; compound any offence under this Act or under, any other law for the time being in force which may lawfully be compounded by, the Authority; admit, compromise or withdraw any claim made by or against Bihar Regional Development secg. 89-90 (d) obtain such legal advice and assistance as he may think necessary; (e) expedient to obtain or as he may be directed by the Authority to obtain any, 'Q' which he purports to fine foregoing clauses of this section or for lawful exercise or discharge of any power duly vested upon the Authority or any officer, employee at authority. Constitution The Tribunal of Appeal consists of President and members. (2) The President shall be appointed by the State Government: (3) The cadre of District Judges of the State Superior Judicial Service. (3) The State Government shall appoint two more persons as of the Tribunal, one of whom may be a Civil Engineer not below the rank of Superintending Engineer and the other may be a Chartered Accountant or a Engineer with knowledge and experience of town planning and all other properties. (4) The President and the members of the Tribunal shall hold office in the pleasure of the State Government. (5) All decisions of the Tribunal in exercise of appellate shall be final and shall not be liable to be questioned in any court: of whether in a suit or other proceeding by way of appeal or revision. Comments [Appellate Tribunal.—The provisions of section 69 make clear Appellate Tribunal constituted under this Act has to mandatorily three persons, (A) 'decision' by an Appellate Tribunal not constituted in of section 89 is liable to be set aside by the High Court and for redressal by the Appellate Tribunal in accordance with law. Baleshwar Paswan vs- State of Bihar, 1994) PLJR 358.] The Tribunal do have of Civil Tribunal for, the purpose of determining any matter referred to them. The powers as are vested in a civil court under the Code of Civil Procedure, 1908 when a suit, in respect of the following matters, namely— (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents (c) administering to any party to a proceeding before the such interrogatories as may, in the opinion of the Tribunal, be necessary. Comments & case-law [Even administrative actions are not out of the scope of principles of natural justice. L. Sephard vs. Union of India, 1988 3 LJ Admission' made in pleading cannot be dissected. Unlike the testimony of a witness, it may be accepted as a whole or not at all. Governing vs. Padmanabha Padmar, 198B (2) SLJ -180. The strict standards applied to authorities exercising are being increasingly applied to administrative bodies for it is vital to maintenance of the rule of law in a welfare State. The jurisdiction of Bihar Regional Development Authority Act, 1974 Sec. administrative bodies is increasing at a rapid pace. Therefore, the instrumentalities of the State should discharge their function in a fair and just manner. Justice must not only be done but must appear to be done. Mere likelihood of bias effecting the decisions of Authority or Court is objectionable. L. J. Ramnohan Lal Bhagat vs. State of Bihar, 1988 PEJR 2. there is a violation of the principles of natural justice, any order passed thereunder becomes a nullity. No appeal or revision lies from an order which is a nullity. The defect caused by denial of opportunity of hearing cannot therefore be cured by the appellate or revisional authority providing the opportunity of hearing denied earlier. Ghanshyam Pandit vs. Commissioner, Patna PLON 140. Statutory functionaries under Municipal Acts must confine their jurisdiction within the four corners of the statute. Durnraon Properties and Enterprises (P) Ltd vs. State of Bihar, 1989 PLJR 32. In an application for condonation of delay, there must be some attempt to explain the cause for such delay. of J. D. D. vs. Tata Yodogawa Ltd. jurisdiction of Civil as otherwise provided in this Act no suit shall be brought in any Civil Court to set aside or modify any order made under this Act and no injunction shall be granted by any Civil Court restraining the Authority or its officers servants from doing any act or exercising any power or performing any duty purported to be done under this Act or rules or regulations framed thereunder. Comments and) [Decision of the Town Planning Officer determining the amount of compensation in a case where the owner of the original plot is not provided with the plot in the final scheme, is not appealable. The principle for determining the compensation is the same whether the displaced owner of and is given a reconstituted plot or not. Compensation is payable on the basis of market value of the plot on the date of declaration of

the intention . to make a scheme. Parkash Chand Shah vs. State of Gumat, AIR. 1981 SC' 1597. There is no role that even decision of every officer under a should be made appealable and if it is not so made appealable, the statute should be struck down. Unless the court finds that in the absence or prevj- Sion an appeal is likely to make the whole procedure oppressive and arbitrary, the court does not condemn it as unconstitutional. Still a provision cannot be held to confer uncanalised and arbitrary power on the officer concerned and is therefore not violative of Articles -141 •19 (i) (f) and .31 of the Constitution. Parkash Amichand.Shah vs. State of Gujrai, (1980) SCJ 106 : AIR 1983 SC 468. (From Bombay Town Planning Act, 1954 section 32). No writ of mandamus can be issued ordering reinstatement of an employee to the post where the appointment is a matter of contract and where the period for which the appointment was made has already expired. However the employee may be entitled to a declaration that the order of termination was illegal. A K. Mukherjee vs. State of Bihar, 1969 PLJF 5GA (SC) was remanded to High Court by the Supreme Court with direction to Sec. 92] Bihar Regional Development Authority Act, 1974 by authority or the plots allotted to any lot: the respondents in petition disputed question of fact and exercise of writ jurisdiction where Act bars jurisdiction of civil courts—in order to get location of disputed road ascertained afresh by getting the physical situation clarified, the High Court may give direction for constituting a committee of Technical Experts and follow the implementation of the recommendations of the committee by the P. P. & b. A. forthwith. Smt. Krishna Singh vs. State of Bihar, PLJR -10G3. The Civil Court's Jurisdiction to entertain a Civil suit is not ousted in respect of a dispute regarding the right and title or possession of a person on any 'piece of land' with the Regional Development Authority for the reason that the BRDA does not provide any remedy for adjudicating the right title or possession of a citizen over a disputed piece of land under Section (he Act. Smt Shand Devi vs. Ramchandra Ram, 1995 (1) AIR PLR (2) PLJR 4. In the event of denial of Civil amenities or non-observance of statutory duties resulting in denial or deprivation of the civic amenities and/or basic necessities of the citizens, it will be open for the public spirited person or body of persons to approach the High Court for issuing necessary direction to the appropriate authority, and the Court may pass such orders as the situation may warrant. Ram Kishore Prasad vs. State of Bihar, #995 (1) PLJR 654. Even where the Act provides an appellate forum against order of Cancellation or stoppage of unauthorised construction and bars remedy before Court, a suit questioning the appellate order will be maintainable on ground jurisdictional error. D. R. Chawla vs. Municipal Corporation of Delhi, (1993) 3 SCC 162. Right of appeal always statutory. The right to notice in proceedings in court of law or quasi-judicial proceedings are different than the right of Appeal. L. R. Awas Evam Vikash Parishevi vs. Gyan Devi, (1995) 2 SCC 326.1 REPEALS, SAVINGS AND DISSOLUTION Where the State Government is satisfied that the purposes which the Authority was established under this Act have been substantially achieved so as to render the continued existence of the Authority in the opinion of the State Government unnecessary the State Government may by notification in the official Gazette declare that the Authority shall be dissolved with effect from such date as may be specified in the notification and the Authority shall be deemed to be dissolved accordingly. (2) From the said date— (a) (h) (c) a" properties, funds and dues which are vested in or realisable by the Authority shall vest, or be realisable by the State Government; all khasmahal lands placed at the disposal of the Authority shall revert to the State Government; all liabilities which are enforceable against the Authority shall be enforceable against the State Government: and Bihar Regional Development Authority Act, 1974 f Sec. 93 (d) for the purposes of carrying out any development Which has not been fully carried out by the Authority and for the purpose of raising loans and referred to in clause (he functions of the Authority shall be discharged by the State Government. savings-II) As from the date of the constitution of the Authority—the Bihar Town Planning and Improvement Act, 1951, the Bihar: Restriction of Uses of Land Act, 1948 (Bihar Act 23 of 1943) shall cease to have effect within the area notified under sub-section (2) of Section 1, save as provided under Section 30; the Improvement Trust as constituted under the Bihar Town Planning and Improvement Trust Act, 1951 shall cease to exist from the date this Act comes into force the Bihar Regional Development Authority Second Ordinance, (Bihar Ordinance no. of 1981) is hereby repealed. notwithstanding such repeal, any thing done or any action taken in the exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act, as if this Act was in force on the day on which such thing or action was done or taken. (2) Notwithstanding the provisions of sub-section (i) (a) every officer or other employee

serving under the Improvement Trust or Town Planning Authority and the Authority under the Bihar Restriction of Uses Land; Act: 1948 (Bihar Act 23 of 1948) immediately before the date of the constitution of the Authority shall, on and from such date, be deemed to have been transferred to and become an officer or other employee of the Authority with such designation as the Authority may determine and may hold office by the same tenure, at the same remuneration and on the same terms and conditions of as he would have held if the Authority had not been constituted, and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Authority. Provided that any service rendered by any such officer or other employee before the constitution of the Authority shall be deemed to be service rendered under the Authority; anything done or any action taken (including any appointment, notification, order, scheme, permission, bye-laws, regulation or form made, granted or issued) under the Bihar Town Planning and Improvement Trust Act, 1951 and the Bihar Restriction of Uses of Land Act, (Bihar Act 23 of 1948) shall so far as it is not inconsistent with the provisions of this Ordinance, continue in force and be deemed to have been done taken under the provisions of this Ordinance. unless and until Sec. 93 (c) (d) (e) (f) (h) Bihar Regional Development Authority Act, 1970 all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, for or on behalf of the Improvement Trust or Town Planning Authority and the Controlling Authority shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Authority, all properties movable and immovable and all rights, title and interest in any property vested in the Improvement Trust or Planning Authority shall vest in the Authority, and in possession of the Improvement Trust or Town Planning Authority shall be deemed to be in possession at the Authority all rents, fees and other sums of money due to the Improvement Trust or Town Planning Authority shall be deemed to be due to the Authority all suits, prosecutions, and other legal proceedings instituted or which might have been instituted by, for or against the Improvement Trust or Town Planning Authority or the Controlling Authority may be continued or instituted by, for or the Authority. All sums charged on any property under, the Bihar Town Planning and Improvement Trust Act, 1951, or the rules framed thereunder shall continue to be charged on that property and the charge shall be enforceable by the Authority, from the date the Authority comes into existence it will have the same right as the Improvement Trust or Town Planning Authority had in all lands within the area notified under Section 14 which were previously held by the Improvement Trust or Town Planning Authority on lease from the State Government for a certain period or the possession of which had been delivered to the Town Planning Authority all lands within the area notified under Section 14 held by any person as lessee from the Improvement Trust or Town Authority under a registered deed or lease for residential purposes (and not for commercial purpose or commercial - residential purpose) shall be deemed to be vested in him as perpetual leasee from generation to generation on payment of fee to Authority at the rate of one rupee per square meter. Comments case-IQJL; [The repeal of an Act may not amount to repeal of the Rules framed thereunder, if the Rules are not inconsistent with the provisions of the Act, until new Rules are framed under the new Act. Raj Keshwar Prasad Singh vs. State of Bihar, 1987 PLJR 842. The Draft Master Plan in respect of Patna which still survives can only be altered or amended in accordance with the provisions of Section 24 of the Bihar Regional Development Authority Act. The schemes framed under the Bihar Town Planning and Improvement Trust Act should be deemed to have been framed under the B. R. D. A. Act, 1974. The areas shown in the Master Plan as 'Green Belt' area cannot be utilized for other purposes. Paswan vs. State of Bihar, 1988 PLJR 968.] 220 Modified Building Bye-laws 25 Metres (82.0 ft.) in built up area Width of plot 30 metres (94.4 ft.) 13 metres (42.64 ft.) Width of front built up area 20 30 13 20 metres metres metres metres 25 metres 30 metres 13 metres 20 metres Road Front. Rear Sides Cars scooters Cycles 20 metres (56.6 ft.) in New area Set backs 9 metres (29.52M) 4 metres (13.12 ft.) 4 metres (13.12 ft.) 2% of seats 8% of seats 20% of seats 9 metres (29.52 ft.) 9 metres 4 metres 3% of seats 10% of seats Of seats 4 metres 4 metres 3.5% seats 8% of seats of seats Gihjse:aneous : (b) Note Each 0.9 sq. metre (or 10 sq.ft.) of floor space of cinema hall including Balcony shall be deemed to be occupied by one person. The parking space provided for a car shall not be less than 20 sq.metres area; and for a Scooter and Bicycles the parking spaces provided shall not be less than 3 sq.metres, and 1.4 sq. metres respectively. Where the Master Plan/Zonal Development Plan provided the minimum proposed right of way where a construction of Cinema is possible but the existing right of way is narrower than the above standard, a cinema hall may be permitted only if the existing right of way is not less than 10 metres in case of towns with 50,000 population and less and 13

metres in cases d towns with papūla- tjön more. than 50,000. 1981 (40, 1982 y (2) Ghqr, ftTā Q--ü a-ir fā--e;v-q zuōT (VI) fa-#t q-TFr fæ-vit gh, t, Q-ét ft, Ait t; 222 (iv) (v) (vii 3-iIT , uld , a-q -R; 7>ÄT f>etü i fäö (i) FTÄ, , a-iit (ii) qq-q-+fi-qi-o-r (ZT) EIRT-8 (17 (Z) i2ü6X-ze;a-11 1922 7,1922) 7 , 1948) () ' ' ZIT t, friGiT (UT) 3 7Tü 16 ga.T1-rü: .3ffä-t-a*--q (IF) 1948 37, 1948) 1 3. (1) zvrq -æ-qzr ä; ft, fig, qh;ii air 3ii-c iT taxi , *Tit .1 -EFT_GITfrT a- qi-fir , fæ;u: (Z.) 31:a zir SRI -tg (V) 3-va:raq, () Gi-a 224 1981 frTf*ä -\$4 fifi-a (9) 3 z*Q-zae-r (3) (ZE,) (10) () ur a*-a-éä 6-8] [225 Iüqr -q;-rt-ai\$ - qi-I* ERT 3-IZ{ÄT (2) frzäu-r G; (f*Tf4T Git e; shit 500 SOC ft-fitl 3-1f&47 , 7. (1) åEfi 6 fixit t (2) Kfr{, 7TZitFtr -Qt KITT, (4) 12 t 227 i-rrr 12. () 3FZT (E) feü Ziv-UFT (•i) (3) air (4) vtaqFr (@7,) AT mfé-a;-tv ft-ot! 198% 13-14. 2280 fäfar g-ft 1*-ét 12 (2) 12 (1) *Til, 14. 13 (1) Fit t, -Q 3R--q-k (3) a-q-gn-r (1) e-lüi*c -a 13 a-q-qn-r) (4) 12 it () tRTfütZfi1tr .&5) e-frv 15-16] 229 itfr i 12 u-UiRT (1) i.) -*t-q ffit 3ÄZff(71)) QT*ii: •f*qt0T 3iTfäFä *-rrr fQir-q-rzt Gnuqr, qra, (z5) Iq-rq-c-az @ætt e-â(AT , -qr 01) () vëf-uvrrej, () axrrq I 230] 1981 (7-18 (V) ät, ZFff, (g) utäc«r (z) •q;-fr--wét , 17. (1) 3951 S,) e; (iz-*) iGa-Tā 18. wit -ctlfr, zer it 1981 07) (77) (f&rq ; (t) faffi-z-(æi-äzt 19. () ftqā fry;) (i) (iii) (iv) AT a-.t+ft 232] (viii) a; (i") (x) • (Yi) (xii) qfi-frtqfrJT e; (hapha ard!y) 7-rzr?fäféz a-fq ft*kéz (- 23. () Zi-a, 24-29) 1983 [233 24. (1) ur züGFiT ; 25. fÉ5ü e-ifrq 26. (1 ft, fäQZ a-tR tä 27. :- z-q 28. 29. eg (-1) 1894, (1 1894) füt 3frififr 234 _ 30- Qit-) -a-jq-ü-u;q *-qvt -QT .3FT AT zq#T e, , -Gi fff, fiÄ5V.fi AT frqzü, , 33) a?irā 1981 235 (-e ufi-friRiur (q) Qir (Z.) ((trel (((*fifi), () 7*fi •ää , () fiföz- ii füt-tifizqi -qi-Rf (3) () 60 19 (2) 33. 32 G; ii-e;qx:- (1) urcr 32 ur FIN, fuf-) -;irfäg qfi•fäa , -q-q-u fetfhf& 236] 34. (xat-r), (() 71 , AT fiqiOT, 35. ?tqT SOT, I fufÄ-a 36. () füt-füt& (2) t-eä 37-38] C 237 qvrä (4) 37 (2) ÄTq#r (5) f?rä 37. (.1 .) qfifhfiT erlfüfræ-q (2) Miii*-qtüt zrs (5) Afü 36 fö;- 30 (i?iXÆ) zrr 38. 37 Etc, 238 favr 2*Tr ÉGT i 39. () 37 -g-g-?i -ait-8 (2) ifr, 40. () 37 Zi; a-iüÄqq , 36 -e: Gü-f-ä-« Efi-c-ö I 41—44] 2)-ti-e- 98 42. €1, e-ISTi 43. Oat , uT e-FIAXfui-T 44. () (71) e.-mqxq, 1899 2, 1899) -a-it 2) -a 240 44 (Qi) 1899 2,) 27 iTit, 1899 2, 1899) 64 (iii) q-ät Qi 1922 7 1922) 13, 1952) 1922 (7, 1922) 30 (iii) (3) (i) 1922 (7, 1922) 84, 86 86-g 89 45-51 1981 (6) 3-tq:it a-Ifi• (7) f*-Ä--ëf 3Tfinq 45. :-) 46. () 69 47. fäftTf 48. (1 49. :- so. 242] 52-54 52. () ss 36 (2) 41 53. fiat-I 54. () 35, 36 37 it, war SS-58 c 243 air 'CGt (1) fezn• (4) -a-z-f\$qr-a *FIT, QTEIT -q-a-tIT I &TTTt, fä74V fq.ft -qr fä•xr (3å-r t , e-ix 56. 244] 1981 S9-6 59. () .3TGT GTQ, 60. (1) •q , -a-qi* 1981 245 fQ7ü ii (ii) ÄiTC, FTP-T 59 Q, 61 62. (1) 60 u-zvrti 63. (1) -q-tq i 64. (I) ZIT (2) () tæ, 1974 (246] 1981 6S-7Q 65. (} ur 66. fi-älé, 67. Afra, (iii) .3-iÄ•i) (iii) AT (.iv) -itt etö-G-a- ut?fii 69. fig-q 3R-t-a-U •iiti-q, 71-78] [247 71. 1860 (€ 45, 1860) 21 72. fai• 73. frFtr -Gf 74. 75. a; 3-TEt3 76. (1) tä-7ét (2) ü7F?r 74T t; 77. 78. () -ur 1981 79-80 79. () Gixr 3iR frqt0T 85. t-c&t () -i! a-iR ait i-fif; 1981 81] 249 (-a vfrdöav; , fäq uracur 2-ft -S -tag ifä; 250 9B 1 82-85 fiÄFt 7it 83. 20 -Ä 30 fin-ri 84. a-ix 72 1908 20, 12 82, 83 B4) 85A-87] 195S 1955 I -evet 85k vrfüæ;« q-zx, qr 3-T7ä 86. 1870 7, 1870) 87. (interim) füt-€@ 1981 88-91 2521 39 88. -a) () fä-fü f*t4z (3) *Qit (5) QTiteit 90. *zit, 1908 fit-a :- 92-93 T 981 fa;vfi 92. (1) 253 (q.) 30 (2) 1951 w (1948 23 ,) , 1951 1981 254] 93 Gil 23, 1949) (q) GT(T, füt Gi (78) I C 265 p ART V Note on Directives given by Patna Righ Coun regarding Demolition, widening, Removal of Encroachment etc. (i) In the .case ot Arun Kumar Mukherjee vs. State of Bihar (CWJC No. decided on (Reporte0 in 1997 (i) PLJR 369) Bihar Regional Develcrument Authority Act, IGÜI Section 54—P.R.D.A. while examining each case by sending its team to verity {acts on the site of construction, must permit the builder to carry on the construction, jf it is lound thai buiiding plan has been duly sanctioned in accord- rance wtl-f the bye laws and the rules and construction is also being carriéd out in accordance with the sanctioned plan, but in those cases where construction not in accordance with sanctioned plan or Where sanctioned plan has been obtained contrary to the relevant bye laws, rules etc. the authorities must step builder from constructing any further til! he removes the offending part of the construction or modifies or corrects the sanctioned plan, SQ that they may be brought in accorciance with the building bye laws. Bihar Regional Oeveiopment Authority Act, 198i-Section 54—1m cases where a builder seeks permission to resume construction and produces before the Vice-Chairman, PADA, the sanctioned plan, on prime facie satisfaction the PRDA may permit him to continue with the constiuction subject to the ultimate result after vertication of 'the building plan and actual construction work—it on final, verification of the sanctioned plan •and the actual construction work done, deviation is found the builder shall not object to the demolition of such structure on the mere ground that he was allowed lo raise the construction provisionally in cases of compoundable deviation the PRDA may exercise its •discretion but in cases where the deviation is not compoundable, the PRDA will direct the builder not to construct.

(ji) Ram Nath Arpra vs. State of Bihar (CWJC IVO. 7204tg7) decided on 3.10, 1997 (Reported in 1997 (2) PLUR 847 Civic Amenities—Widening of roads and constructed against validly sanctioned plan need not be disturbed. In such a case, the authorities may initiate acquisition proceedings or with consent of the owner of the property get the required land for widening the road. There is a clear distinction between the buildings constructed in accordance with a sanctioned plan and those constructed without it. The only thing the authority can do in a case where a building was constructed on the basis of a sanctioned plan is to verify whether or not in actuality the construction conformed with the sanctioned plan. A building claimed to have been constructed in accordance with the sanctioned plan cannot be subjected to the rough and ready device of putting a mark on it and compelling the demolition of the marked portion. In case it is found that the building is in accordance with the sanctioned plan, the Authority must leave its owner in peace. building and the land appertaining thereto—Petition passed accordingly. [Constitution of India, Article 226. *W.S. Dornco (Pvt.) Ltd. vs. Ranchi Regional Development Authority, Ranchi*, 2005(2) 3 (Jhr). —*Staciinne 35 and 37—Unauthorised construction—Demolition of.—Application for sanction for construction of building filed—No document to show the notice was actually sent and served on the applicant to rectify defects—No reasons recorded for rejecting the application and such refusal together with reasons not communicated to the petitioner—General notice published in newspaper regarding demolition of buildings constructed without sanction—Vice-Chairman failed to exercise his statutory duty while rejecting the application—There is total non-application of mind by the Vice-Chairman. Held : The Vice-Chairman is required to act strictly in accordance with the provisions of Section 37 of the said Act, regulations and bye-laws for the time being in force in the matter of disposal of applications for grant of sanction. The Vice-Chairman is not supposed to exercise his discretion on the basis of executive instructions unless the provisions, regulations and bye-laws are amended or modified. The Vice-chairman must bear in mind that he is exercising statutory duty conferred upon him while dealing with the application for grant of sanction of plan for construction of building. *Vyas Gupta vs. Ranchi Regional Development Authority*, 2002 (1) 270 (Jhr). —*Section 35 and 37—Sanction of Building—Vice Chairman, to sanction—Brief statement stating reasons for such refusal: communication of the refusal to person no order passed within 4 months from the date of application and no refusal is communicated person concerned to give notice regarding presumed sanction if contrary is not received or notified within 30 days from the date of receipt of notice. If the Vice-Chairman refuses to accord sanction, he shall record a brief statement of his reasons for such refusal and communicate the refusal along with the reasons thereof to the person concerned. Sub-section (5) Section 37 further provides that if no order in writing is passed by the Vice-Chairman within a period of 4 months from the date of the application and no refusal is communicated to the person concerned then the person concerned or applicant shall give a notice under registered post intimating that sanction shall be presumed if nothing to the contrary, is received or notified within 30 days from the date of receipt. *Vyas Muni Gupta vs. Ranchi Regional Development Authority*; 2002(1) JCFI 270 (JIT). —*Section 38—Agreement to not create any interest in the property—Such right can be enforced only by filing a regular specific performance of contract. *Harjinder Singh Choudhary vs. Ranchi Regional Development Authority* 2005 (2) JOR 200 (dhr). —*Order, cancelling Plan—Granting the sanction of.—Substantial ground—No notice to show cause or opportunity of hearing given before passing order—violation of mandatory requirement—order of cancellation of sanction can not be sustained in law. *Harjinder Singh Choudhary vs. Ranchi Regional Development Authority*, 2004, 2004(6) JCR 58 38—*Sanctioned plan—Cancellation of.—Without giving notice show cause or opportunity of hearing to the person in whose favour plan was sanctioned—Order of cancellation quashed. *Harjinder Singh Choudhary vs. Ranchi Regional Development Authority*, 2005 (2) JCR 200 (dhr).*****