



8, Jan Marg, Sector 9-D,
Chandigarh
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Public Notice

CWP No. 2309 of 2014 titled as **Ground floor residents of Duplex Flats Welfare Association v/s. The Chief Administrator UT Chandigarh & others** was filed in the Hon'ble Punjab & Haryana High Court for seeking directions:-

- i) To issue directions to respondents to grant sanction to Ground Floor allottees for construction of a room at the first floor terrace of the proposed room constructed by the ground floor allottees in duplex flats, Sector 41-A, Chandigarh with their own cost in the scheme of MIG Duplex Flats, Sector 41-A on Need Based Changes.
- ii) To issue direction to the respondents for recalling of notification/order dated 23.03.2010 vide which construction of room to the upper floor allottees has been allowed at the place of terrace of the proposed room constructed by the ground floor allottee with their own cost under the MIG Duplex Flats Scheme because the said sanction for construction of room to the upper floor allottee was neither discussed nor allowed in the minutes of meeting held by the Federation and officials of CHB and Chief Architect, Department of Urban Planning, Chandigarh Administration dated 07.01.2010 and 09.11.2009. Since it is illegal and contrary to the architectural drawing No.1 & 2, Job No.2205 duly approved by the Administrator, UT, Chandigarh, 30 years earlier.
- iii) To issue directions to respondents to stop illegal construction and to take appropriate action for protection the structural stability of the 30 years old building of the said MIG Duplex Flats, Sector 41-A, Chandigarh for the safety of the residents, keeping in view the structural design of the building.

The Hon'ble Punjab & Haryana High Court vide order dated **28.11.2019** directed to constitute a committee to find out whether the building is un-safe for residential purpose or not. Accordingly, committee was constituted vide order No.08 dated 13.12.2019. The report of committee was submitted in the Punjab & Haryana High Court, Chandigarh. As per the report of the committee, the unauthorized constructions having serious structural stability issues are summarized as under:-

1. In 06 dwelling units, essential load bearing walls have been removed affecting the structural stability.
2. In 76 dwelling units, additional floor has been constructed while the existing foundation was not designed to withstand such load.
3. In 174 units, constructions over the cantilever portion have been made while the cantilever was not designed to take the additional load.

4. In 01 unit, construction has been raised on the rear terrace without raising a load bearing wall from the ground floor level.

Eventually CWP No.2309/2014 was disposed off vide judgement 21.04.2022. The operative part of the judgement dated 21.04.2022 in CWP No.2309 of 2014 is reproduced as under:-

“
5. Consequently, we consider it appropriate that the respondents take immediate action to remove all completely unauthorized structures made on the 3rd floor of the aforesaid units, as it has been specified by the Committee consisting of technical people including Executive Engineers and a Superintending Engineer, that the said floor is wholly unauthorized and that the foundations of the dwelling units do not cater to such load.

It is also to be observed that the dwelling units are stated to be actually two dwelling units, i.e. one on the ground floor and one consisting of a duplex of the 1st and the 2nd floor. Thus any 3rd floor could only have been constructed either by the persons living on the 2nd floor or on his/her express consent, which is completely illegal.

Learned counsel appearing for the newly added respondents submits that the occupants of that floor are not party to this petition.

In view of the fact that this litigation has been pending for the past about 8 years now and surveys have been conducted at different points of time by the respondent Housing Board, it is not possible to believe that they are not aware of this litigation and in any case if no such 3 rd floor has ever been sanctioned by the competent authority obviously such construction is liable to be removed immediately, with it endangering the structure of the whole unit.

6. As regards alterations made by those living on the ground floor and the 2nd floor (the 1st and 2nd floor actually having been allotted as a single duplex unit), the respondent Housing Board would take immediate action within a period of one month from today of restoring the structural aspects of the dwelling units, i.e. any pillars, load bearing walls, foundations and cantilevers etc. as have been found to be removed would be constructed. It would also be ensured that proper structural safety is provided to all the units, at the cost of the allottees of such units on a pro rata basis, i.e. as per the extent of the violation made and the construction to be now made in lieu thereof by the respondent Housing Board, with costs to be assessed as per the scheduled rates specified by the competent authority.

7. After the complete structural safety of all dwelling units has been certified by the competent authority amongst the respondents, such report be put up to a committee consisting of technical persons and headed by the Chairman of the Housing Board.

Thereafter, as to which additions etc. made by all residents of the area are those which fall within the permissible norms of the existing bye-laws would be considered on an individual basis by the respondent Housing Board, and where such alterations etc. are found to be permissible, a detailed speaking order in that regard would be passed, with the persons who have made such alterations to make statutory payments as may be required for compounding such alterations (as are permitted by the bylaws).

.....”

Subsequently, respondent in the said CWP No 2309 of 2014 has filed an application for modification of judgement dated 21.04.2022 vide CM-6744-CWP-2022 in CWP No.2309 of 2014 .The operative part of the Interim Order dated 05.05.2022 in CM-6744 CWP-2022 in CWP No.2309/2014 is reproduced as under:-

“.....

Be that as it may, as regards modifying our order aforesaid, we see no ground to allow such modification, except to clarify what we have already stated in that order and hereinabove, that after certifying the structural safety by making alterations as are required with regard to load bearing walls and pillars etc. as have been removed (wherever that is so), by individual allottees/occupants of the houses in question in the petition, thereafter the issue of demolishing additions/alterations made on the ground, first and second floor of the house would come in question on an individual basis, after duly taking into consideration any compoundable violations on an individual basis (and not by a general order across the board).

For the respondent Housing Board to respond to this application and the observations made hereinabove, by way of an affidavit of the competent officer, adjourned to 20.05.2022.

In the meanwhile, though the drive for restoring load bearing walls and pillars etc. would continue unhampered, as also for demolition of the unauthorized 3rd floor where existent, naturally each case would need to be considered on an individual basis by the respondent Housing Board as regards additional rooms etc. constructed on the ground, 1st and 2nd floors.

The respondent Housing Board would also respond to the contention of learned senior counsel for the applicant that the matter of need based changes across all sectors in Chandigarh are under consideration, and as regards Sector 41- A, whether any such need based changes are also under consideration.

It is made clear that if any demolition is made of a violation that was compoundable, and the concerned allottee/occupant can show in appropriate

proceedings that that was so, the respondent Housing Board would be liable to pay wholly commensurate damages for any such illegal demolition.

Naturally, any damage to adjoining structures of persons who are not at fault, will also be the liability of the violator because demolition has to be done in a very careful manner so as not to affect persons who are not at all at fault, with that again to be seen by the Housing Board on a case to case basis. Thus if demolition of a particular non-compoundable construction results in damage to a neighbour who has not committed a violation, despite due care taken, the violator would necessarily be required to get the damage repaired to restore a neighbours' dwelling unit to its original condition. ."

The CM-6744-CWP-2022 in CWP No.2309 of 2014 was disposed off vide Order dated 20.05.2022 .

In pursuance of the directions dated 21.04.2022 passed in CWP No. 2309-2014 and subsequent direction dated 05.05.2022 passed in CM 6744-CWP-2022 in CWP 2309-2014 by Hon'ble Punjab & Haryana High Court, a Committee was constituted vide office Order No. 80 dated 14.05.2022 comprising of the following:

- | | |
|------------------------------------|-----------------|
| 1. Chairman, CHB | Chairman |
| 2. Chief Executive Officer, CHB | Member |
| 3. Chief Engineer, UT, Chandigarh | Member |
| 4. Chief Architect, UT, Chandigarh | Member |
| 5. Chief Engineer, CHB | Member |
| 6. Secretary, CHB | Member |
| 7. Superintending Engineer-II, CHB | Member Convener |

Further, a Sub Committee was constituted by Chairman, CHB vide Order No. 81 dated 14.05.2022, to certify the structural safety after duly taking into consideration any compoundable/need based violations on individual basis of all the dwelling units (Duplex Flats) in Sector 41-A, Chandigarh, comprising of the following:

- | | |
|--------------------------------------|-----------------|
| 1. Superintending Engineer-II, CHB | Chairman |
| 2. Superintending Engineer-I, CHB | Co-opted Member |
| 3. Executive Engineer-I(Design), CHB | Member |
| 4. Enforcement Officer, CHB | Member |
| 5. Architect, CHB | Member |
| 6. SDE-I (Civil), CHB | Member |
| 7. SDE-Design, CHB | Member |
| 8. Dy. Enforcement Officer-I, CHB | Member Convener |

CWP-17382-2017 & CM-3253-CWP-2020 and connected cases i.e. CWP-11650-2018 & CM-3540-CWP-2020 , CWP-25881-2018 , CWP-26593-2018 , CWP-3349-2018 & CM-10938-CWP-2019 & CM-3526-CWP-2020 , CM-16091-CWP-2022 & CM-16710-CWP-2022 , CWP-37168-2019 & CM-2860-CWP-2020 & CM-752-CWP-2020 , CWP-42895-2018 , were filed in the Hon'ble High Court of Punjab and Haryana for quashing the policy/order no. 42 dated. 18.02.2016 and order no. 59 dated. 15.02.2019. The Hon'ble High Court of Punjab and Haryana had directed vide interim Order dated 15.03.2023 reproduced as under :

"Having considered the submissions made by the learned counsel for the parties, we are of the considered view that the latest status report relating to the structural stability and safety qua the residential units of the petitioners need to be submitted after getting them inspected by a committee, which was constituted in pursuance to the order passed by a Division Bench of this Court in CWP No. 2309 of 2014, apart from putting forth the violations having been committed, if any, by the petitioners mentioning therein the ones, which are compoundable and which are non-compoundable violations relatable to the policies of the respondents issued from time to time including the latest one.

The Petitioners in above said cases are residents of Sectors 41-A, 41-D, 45-A, 45-C, 45-D, 46, 47-C, 39-B and 29-B, Chandigarh. They were requested vide public notice dated 15.03.2024 to get the Structural Stability of their Dwelling Units including additions/alterations assessed from the Structural Engineers empanelled with the Chandigarh Administration and submit the structural stability certificate to the Chandigarh Housing Board at their own cost.

The report was to be submitted by the allottees on or before 31st March, 2024. However, most of the allottees failed to submit the structural stability certificates on or before 31st March, 2024.

Vide this public notice the petitioners of above mentioned Cases, who are residents of Sectors 41-A, 41-D, 45-A, 45-C, 45-D, 46, 47-C, 39-B and 29-B, Chandigarh, are again requested to submit the Structural Stability Certificates within extended period upto 5th May, 2024.

The allottees are informed that:

- The Structural Stability Certificates should be accompanied by detailed design calculations, result of test conducted and any other evidence
- The structural data/details of the construction/additional alterations done in the Dwelling Unit by the allottees themselves are to be provided to the empanelled structural engineer for assessing the overall structural stability.
- Structure drawings of the dwelling Unit constructed by CHB are available on the website of CHB i.e. chbonline.in
- List of empanelled structural Engineers is available on the CHB website, i.e. chbonline.in. Sub Head – Need Based Changes- Drawings & Orders

- For structural safety aspects reference can be taken as per clause 12.4 of Chandigarh Rules (U) 2017.
- Format in which structural Safety certificate is to be submitted is attached.

AKM
05/04/24
Secretary
Chandigarh Housing Board
Exercising the powers of the
Chief Administrator, Chandigarh.

PERFORMA FOR CERTIFICATE OF STRUCTURAL STABILITY FOR DWELLING UNITS

1. Name of the allottee/transferee _____

2. D.U. No. _____ (3) Sector/Colony _____ (4) Category _____

S. No.	Additions/Alterations	Type of Structure(s)	Area in sq.ft.

Note:-

1. The Map of Additional Construction done is to be attached.
2. The design calculation for additional construction/alteration is to be attached.
3. The result of the test conducted for checking the structural stability of the structure, if any is to be enclosed.

The additions and alterations mentioned above, carried out by the allottee/transferee, were inspected by me. It is certified that the structure of the same is in accordance to the latest structural codal provisions. It is further certified that the above said additions/alterations do not pose any risk to the structural safety of the existing structures i.e. the dwelling unit under consideration and the adjoining dwelling units.

It is certified that my registration as Structural Engineer with Chandigarh Administration is valid as on date.

Signature of the Structural Engineer _____
with date

Name of the Structural Engineer _____
In Block letters/address with Stamp