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PUNJAB & HARYANA HIGH COURT

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Dated: 23.12.2019

To,

1. Advisor to Administrator, Chandigarh Administration, Sector- 9, Chandigarh.
2. Chief Secretary, Government of Punjab, Punjab Civil Secretariat, Chandigarh.
3. Chief Secretary, Government of Haryana, Haryana Civil Secretariat, Chandigarh.

Subject:- Demand Notice – Seeking scratching of the roads before re-carpeting the same.

By Speed Post/Email

Dear Sirs,

I hereby serve the following notice on you on the above subject:-

1. That the Secretary to Government of India, Ministry of Urban Development, Nirman Bhawan, New Delhi, had sent a detailed circular letter dated 3.9.2013 to all the Chief Secretaries of the States/ Union Territories, on the subject of “Action Plan for Flood Proofing of Cities/Towns”. Para (c) of the aforesaid circular letter dated 3.9.2013, which is relevant for the issue being raised by me in the instant Demand Notice of the said letter, read as under:-

“(c) Sinking of plinth due to increase in height of roads.

Re-carpeting of roads either to improve surface or to strengthen it, results in increase in thickness of road. This makes the plinth level of the buildings lower than the road surface. This situation, in case of heavy rainfall, could lead to rainwater entering the houses. At times, when the drainage system is clogged, such rainwater mixes with the sewerage, which flows back into the house. This would call for a survey of the city roads to identify area where the road surface is higher than the plinth levels. Careless re-carpeting could also result in disturbance of existing services and approach to houses along these roads.

Keeping in view the recent technological innovations, it is advised to adopt hot in situ recycling technology by removing the top bituminous layers, remixing with desired quantity of bitumen deficient and re-laid hot mixed to desired thickness. These steps are executed in one go by continuous chain of machines so as to disturb the existing road for few hours only.

Alternatively, road surface may be maintained by removing the entire top bituminous surfaces and transport to plant for recycling and then relay after adding these deficient materials. This technology is also same as above, but time consuming and involves transportation of materials.

Another aspect for improving the riding quality of roads is to adopt the Micro-surfacing Technology. It has a thin layer of modified bitumen emulsion mixed with very small size aggregates, which virtually fills the cracks and seals the entire surface at top to make it more resistant to withstand the traffic load for further period of 2 to 3 years.”

2. That notwithstanding the aforesaid salutary advice to all the Chief Secretaries of States/Union Territories, it is noticed that you are re-carpeting the roads within your area of jurisdiction in an indiscriminate manner and without removing the entire top bituminous surfaces/layers, and the roads are being just re-carpeted. It is increasing the height of those roads, with the result that the plinth level of the buildings becomes lower than the road surface. Resultantly, in case of heavy rainfall, the rainwater enters the houses. At times, even the drainage system is clogged and such rainwater mixes in sewerage, which flows back into the houses. Before ordering the re-carpeting of roads within your area of jurisdiction, you have never conducted any survey of the city roads to identify area where the road surface is higher than the plinth levels. Such careless re-carpeting is resulting into disturbance of services and approach to houses along these roads. Large number of houses are becoming useless, and have lost their resale value. It is high time that the concerned authorities, who are ordering such re-carpeting, in indiscriminate manner, causing undue damage to the houses on the sides of the roads, should be held accountable, and may be made to pay adequate compensation to the owners of such houses.

3. That in the aforesaid context, I may submit that I had sent an E-mail representation dated 1.7.2019, inter-alia, to the addressee No. 1, requesting that the ongoing re-carpeting drive of the road in the Daddu Majra which was

being done without scratching the earlier one, be stopped. However, the addressee No. 1, did not bother, nor the Chief Engineer of Municipal Corporation, Sector 17, Chandigarh, bothered to take cognizance of my aforesaid representation and they continued the re-carpeting of the various roads in the Daddumajra in the manner mentioned above.

4. That it is further pertinent to submit that same illegal and unjustified procedure, which is detrimental to the public interest is being followed by all of you. It is pertinent to state that the plinth level of UT Guest House, Chandigarh has become lower than the level of the roads in front of the said building. Some houses/kothis in Sector 5, Chandigarh have also suffered damage for the reason that the plinth level of those houses/kothis has become lower than the level of the surface of the road passing in front of those kothis/houses.

5. That as per my information, in Mohalla Akalgarh of Bathinda, a road was made last year by interlocking tiles without first removing the previous layer of premix from the base of the said road, as a result of which the level of the roads rose by 9 inches due to interlocking tiles, resulting into lowering the plinth level of the houses on both sides of the said road. The result is that during next rainy season, the rain water entered into the houses and also into the sewerage drain.

6. That as per my information, a number of streets in Durgapuri, Haibowal Kalan, Ludhiana, have been recently carpeted without dismantling the old one. This has resulted into lowering the plinth level of houses on both sides of the streets. The same has taken place in Ward No.19, Ludhiana.

7. That similar practice is also continuing in the entire State of Haryana as well. The instructions dated 3.9.2013 issued by the Government of India, Ministry of Urban Development to all of you have fallen on deaf ears.

I would therefore, call upon you to immediately conduct a survey of the roads within all towns and cities under your jurisdiction, and earmark all such roads level of which has risen above the plinth level of the houses on both sides of such roads /streets, and ensure that without removing the previous layer of bitumen from these roads, these should not be re-carpeted.

In case, I do not receive any response from you, within a period of one month from the date of receipt of this notice by you, in that event, I would be left with no other alternative except to approach the Hon'ble High Court of Punjab and Haryana at Chandigarh by filing a Public Interest Litigation, for seeking the redressal of my aforesaid legitimate grievance in public interest.

Meanwhile, please acknowledge receipt of this notice.

(H.C. ARORA)
ADVOCATE