

**Ministry of Civil Aviation
Rajiv Gandhi Bhawan, New Delhi-110003**

**Minutes of the Meeting of the Appellate Committee for height clearance held on
06th January 2016**

Reference Ministry of Civil Aviation letter No. AV.20036/66/2000-AAI dated 15-10-2012 read with letters dated 31-12-2012 and dated 04-01-2013, the Appellate Committee constituted to consider appeal/grievance made by different applicants with regard to the height allocated to them by AAI for their construction vis-à-vis the height sought by them, held its meeting under the Chairmanship of Joint Secretary, Ministry of Civil Aviation (MOCA) on 06th January 2016.

The following Committee members were present:-

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| 1. | Sh. A K Dutta | - | Member (ANS), AAI |
| 2. | Sh. A K Bhardwaj | - | Director, DGCA (representing JDG, DGCA) |
| 3. | Sh. K. Gohain | - | Technical Expert |

The following decisions were taken for the appeal cases that were brought up in this Committee Meeting:

1. M/s Meenakshi Infrastructure Pvt Ltd, Hyderabad.

Case No.: HY/74/2014
CHQ File No.: AAI/20012/87/2015
NOCAS ID: HYDE/SOUTH/B/030314/22383
Site Address: Prop Const of Commercial Complex on Open Land, in Survey No.41, Gachibowli Village, Serilingampally Mandal & Municipality, AP.

As per NOCAS, the proposed site lies in **Approach Surface** and is 9057m from Rwy 09 of Hyderabad Airport.

The applicant had initially requested a height of 684.00m AMSL vide their letter dated 25.2.2014 against which they were granted a height of 649m AMSL vide letter dated 22.4.2014. The applicant vide letter dated 5.10.2015 has requested for reduced height of 669m AMSL.

Applicant had requested Aeronautical Study for higher height. They had submitted in original the letter of GHMC dated 18.09.2015.

This Committee heard the applicant and considered the GHMC letter dated 18.9.2015, which has indicated the land measure required to be given by the developer from their plot proportionate to the width of the road in front, as per the Local Govt.'s policy. They had recommended the height requested by the applicant subject to an aeronautical study.

The Committee also noted that the proposed site lies in the approach surface of Rwy 09 and that as per Gol Notification No. GSR-751(E) dated 30.9.2015 vide Para No. 5.1.2 of Schedule-II, Aeronautical Study is not permitted in the instant case. The Committee also took note of the permissible height under IAL consideration as obtained from NOCAS-II and observed that the height more than 649m AMSL already granted by AAI cannot be exceeded.

Committees' Decision:

The request for Aeronautical Study from the applicant is not acceded to and the appeal is disposed of.

2. Smt. N Devika Rani Rao, Hyderabad

Case No.: HY/167/2015
CHQ File No.: AAI/20012/91/2015
NOCAS ID: HYDE/SOUTH/B/042315/108321
Site Address: Proposed Construction of Commercial cum Residential Complex on open land in Survey No 129/11 (Old) and New No 150 Premises No 8 2 269/12 T S No 6 Block B Ward No 10 of Shaikpet Village, Hyderabad, AP.

As per NOCAS, the proposed site lies in **Inner Horizontal Surface** and is 3837m from Rwy 09 of Hyderabad Airport.

The applicant had initially requested a height of 631.0m AMSL vide their letter dated 30.4.2015 against which they were granted NIL height vide letter dated 25.6.2015 due to site elevation (586m) is greater than the permissible elevation from AGA criteria. The applicant vide letter dated 15.10.2015 has reiterated for same height of 631.0m AMSL.

Applicant requested higher height and submitted GHMC letter (in original) dated 07.10.2015.

This Committee heard the applicant and also considered the GHMC letter of 7.10.2015, which has recommended the height of 631m AMSL sought by the applicant, subject to aeronautical study. The GHMC letter also contains justification for higher height in view of Local Govt. requirements of land from the plot for road widening etc. The Committee noted that the applicant had not given any formal application for conduct of Aeronautical Study despite the fact that the GHMC letter recommends the height subject to Aeronautical Study.

Committees' Decision:

Aeronautical Study to be conducted, subject to receipt of application and completion of necessary formalities by the applicant, to determine whether the height 631m AMSL is permissible.

3. M/s Hubtown Ltd., Mumbai.

Case No.: MUM/15/NOCAS/19
CHQ File No.: AAI/20012/103/2015
NOCAS ID: JUHU/WEST/B/122214/82990
Site Address: CTS No. B-908,B-909, B-910(part), B-911(pt) Village Bandra, H W Ward, Mumbai.

As per NOCAS, the proposed site lies in **Conical Surface** and is 5494m from Rwy 09 of Mumbai Airport.

The applicant had initially requested a height of 150m AMSL vide letter dated 22.12.2014 against which they were granted a height of 110.32m AMSL vide letter dated 01.4.2015. The applicant vide letter dated 31.10.15 has reiterated the same height of 150m AMSL

Applicant requested Aeronautical Study to complete this SRA scheme and consume entire FSI. SRA letter dated 07.10.2015 (in original) submitted.

This Committee heard the applicant as well as took note of the SRA letter. The SRA letter recommends the project as it is required for slum rehabilitation and the applicant's representative clarified that they required the height requested is for their sale building to offset the cost for the slum building and for utilization of the FSI granted to them by the Authorities. The Committee also noted that the SRA letter of 7.10.2015 mentions that the approval of the authorities has been sought by them for the various land offsets required as per State Regulations for grant of FSI and other concessions.

Committees' Decision:

Aeronautical Study to be conducted after the applicant furnishes the due approval from SRA as mentioned in the SRA letter dated 7.10.2015

4. Sri M. Satchidananda Rao, Hyderabad.

Case No.: 255/14/HY
CHQ File No.: AAI/20012/63/2015
NOCAS ID.: HYDE/WEST/B/072814/52544
Site Address: Proposed construction of residential building on premises No.6-9-30, in part of survey No.30 situated at Kukatpally Village, Balanagar Mandal, A.P.

As per NOCAS, the proposed site lies in **Inner Horizontal Surface** and is 3227m from Rwy 09 of Hyderabad Airport.

The applicant had initially requested a height of 574.8m AMSL online dated 28.7.2014 against which they were granted 574.8m AMSL vide letter dated 01.9.2014. The

applicant had subsequently increased the height requirement to 599m AMSL vide letter dated 27.7.2015 requesting Aeronautical Study to make project financially viable.

The applicant's representative was heard in the meeting held on 29.9.2015. The Committee also noted from records that as per undertaking given by the applicant on Rs.10 non-judicial stamp-paper dated 27.07.2015 states, "the construction work is in progress and the said building has been constructed up to an elevation of 599m (AMSL)", **which is 24.2 mts more than the granted height.**

The applicant's representative was confronted with this official record on a stamp paper signed by the applicant which states that the construction has been carried out higher than the permissible height as given in the NOC dated 1.9.2014. This Committee took a serious view on the false submissions of the applicant's representative and suggested debarring the applicant's representative in future.

The Committee then decided that AAI to follow up action with the State Authorities for taking action as per the prevalent Rules for the violation of exceedence of permitted height. AAI also to inform the applicant about debarring his representative from future appearance in the Committee.

Appellate Committee discussed such cases in meeting held on 06th November, 2015 and decided that:

"The committee also directs that where the appeals have to be reconsidered because of contesting the undertakings given on non-judicial stamp paper with regard to the height by the applicant himself, leading to rejection of such cases, the applicant has to submit appeal afresh with the requisite fee."

The applicant was informed about the above decision vide AAI letter dated 07.12.15.

The applicant applied as a fresh case requesting Aeronautical Study and submitted Municipal Administration and Urban Development Department – Andhra Pradesh Building Rules, 2012 dated 07.04.2012. The height requested by the applicant now is 585.50m AMSL in their letter dated 10.12.2015.

This Committee heard the applicant and was of the view that based on the past, a verification of the actual height status of the building be carried out by a joint team of representatives from AAI and DGCA and thereafter submit the case with the details to the Appellate Committee.

Committees' Decision:

A joint team from AAI and DGCA to inspect and verify the status of the building at the site for which the applicant had made the request and the report to be submitted to the Appellate Committee.

5. M/s Sunshine Builders & Developers, Mumbai.

Case No.: MUM/10/702
CHQ File No.: AAI/20012/113/2011-ARI(NOC)
NOCAS ID: JUHU/WEST/B/110513/17769
Site Address: CTS No.78 & 79 of Village Gundavali, off Western Express Highway, Andheri (East), Mumbai.

As per NOCAS, the proposed site lies in **Inner Horizontal Surface** and is at a distance of 2347 m from Rwy 14 of Santacruz Airport.

The applicant had initially requested a height of 75.75 m AMSL vide letter dated 10.11.2010 against which they were granted a height of 56.27 m AMSL vide letter dated 30.05.2011. The applicant in its letter dated 16.09.2013 has appealed to Appellate Committee for an increased height of 80 m AMSL which was revised to 110m AMSL vide letter dated 06.08.2014. The applicant requested Aeronautical Study to consume full FSI and to make project viable.

The case was earlier heard in the Appellate Committee held on 27.12.2013 wherein the applicant was to submit the documents/information sought by AAI vide letter dated 20.09.2013 and the case to be placed before Appellate Committee for consideration.

The applicant subsequently submitted the documents including Slum Rehabilitation Authority (SRA) letter dated 01.03.2014 (in original). Applicant stated that his project is a rehabilitation project involving 1776 tenements. A revised SRA letter dated 05.08.2014(in original) was also submitted.

During examination of the documents by AAI, it was revealed that while NOC dated 30.05.2011 was issued based on BMC site elevation certificate of 5.750M dated 15.09.2010, another BMC site elevation certificate for the same site as 18.55M dated 06.09.2010 was also submitted by the applicant. To resolve the doubt, a physical verification of the site was conducted by MIAL.

According to the MIAL report, the measured site elevation is 20.46m AMSL, confirming that the NOC was issued based on the wrong data filed by the applicant. MIAL also reported that at the site six buildings are under construction, of them three buildings have been constructed up to 63.32m AMSL, violating the permitted top elevation of 56.27 M and three buildings have been constructed up to 43.35m AMSL.

In view of the above, the NOC issued by AAI vide letter dated 30.05.2011 was cancelled vide AAI letter dated 20.10.2014. The matter was also referred to Municipal Commissioner, MCGM, Mumbai vide AAI letter dated 13.10.2014 to investigate the circumstances of issuance of two site elevation certificates with varying heights and take suitable corrective action.

MCGM vide letter dated 31.10.2014 has informed that the matter pertains to the SRA and therefore they have forwarded the case to the Dy. Chief Engineer, SRA for initiating further necessary action.

On the request of the applicant vide letter 19.12.2014 requesting Aeronautical Study, this Committee heard the applicant who informed that the present developer Omkar (present in the meeting) had bought the project from its earlier developer Sunshine builders who had created confusion by giving two different sets of certificates from BMC giving different site elevations. The Committee took note of this along with the fact that the NOC had been cancelled on 20th October 2014. The committee also noted that MCGM instead of investigating the issuance of two different site elevation certificates with varying heights, simply forwarded the case to SRA. Therefore, that Committee did not accept the appeal.

The case was heard in the Appellate Committee meeting held on 21.01.15 and it was decided the appeal is rejected. RED, WR, AAI to coordinate with MIAL (Airport Operator) to take up the matter with the State authorities for registering an FIR on the involved parties for producing certificates, issued by BMC, having different & wrong site elevation values.

SRA vide letter dated 31.08.2015 addressed to A.C., has requested for Civil Aviation NOC for this case in the interest of the slum dwellers, as per directives of meeting convened on 01.07.2015 & 13.08.2015 in presence of Hon'ble Speaker (Maharashtra Legislative Council). Mr. Anand V. Dhokay c/o M/s Omkar Realtors & Developers Pvt. Ltd. vide letter dated 16.09.2015 stated that a fresh application for NOC has been made dated 09.03.2015. The applicant also requested for Aeronautical Study and stated that they are willing to accept the height sanctioned after Aeronautical Study.

The case was again put up to the Appellate Committee meeting held on 6.11.2015 in view of the above changed circumstances and had permitted hearing to the Chief Executive Officer of SRA, Shri A Gupta (IAS) who was present with two of his officers from the State Government. The CEO informed the Committee that the site elevation was earlier misrepresented by the Builder, M/s Sunshine Builders & Developers and that penal and legal action has been taken against the erring builder and that he has been removed from the project. The CEO further explained that the Slum Rehabilitation Authority monitors the projects given to the builders for construction of accommodation primarily for the slum dwellers as per the State Govt. directives. The Committee was informed that the project is presently being handled by M/s Omkar Realtors & Developers. The developer has submitted the fresh application for revoking the NOC cancelled on October, 2014. The Committee was informed that 12 floors are admissible with the new site elevation as against the 14 floors already constructed and have therefore requested permission for allocating flats upto the 12 floors for rehabilitating the slum dwellers with simultaneous initiation of demolition of the higher 2 floors. The SRA representatives also requested for Aeronautical Study and assured that the height permissible to such study will be adhered.

The Committee after hearing the appeal of the CEO, SRA informed CEO, SRA that since a violation has taken place, severe action has to be taken against the defaulter by the State Govt. as per the law and that the additional height already constructed has to be reduced. A written clarification from the SRA will be needed.

The Committee then decided that on receipt of written clarification from the SRA regarding action against the defaulter and initiation of demolition of structure exceeding the NOC permitted height, the same to be put up to the Committee.

A copy of CEO, SRA letter dated 30.11.2015 in response to Committee decision was placed in the Appellate Committee meeting held on 4.12.2015, both the SRA representative and the builder were given a hearing. The SRA representatives produced photographs taken by their personnel of demolition works in which demolition of side walls of the constructed floors have been initiated and it was clarified that after the walls are collapsed then the roof will be brought down and that during this process, no occupation of the floors below will be permitted. The SRA representatives also indicated that an FIR has been lodged against the previous builders and has promised to send a copy of the FIR as indicated in its letter of 30.11.2015. The Committee took note of the submissions of the SRA representatives and has informed him that only after evidences of demolition of unauthorized portion of the construction are received along with copy of action taken against the defaulting builders / developer are received. Aeronautical Study can thereafter be authorized.

The Committee decided that Aeronautical Study to be undertaken to determine whether the height sought i.e. 110m AMSL is permissible at site only after receiving confirmation from SRA Authorities that the unauthorized portion of the construction has been demolished and a copy of the FIR furnished.

CEO, SRA letter dated 09.12.2015 in response to Committee decision is placed (in original).

Letters from Sh. Amit Prasad addressed to A.C. dated 03.10.2015 & 26.12.2015 and also a letter from Shri Rajendra Santaram Tawde & Other dated 2nd November, 2015 are placed for consideration.

Committee's Decision

The letters of Shri Amit Prasad and Shri Rajendra Santaram Tawde & Others may be placed on the file and the file to be circulated to Members of Appellate Committee for examination of facts of the case, vis-a-vis, the letters of Shri Amit Prasad and Shri Rajendra Santaram Tawde & Others.

6. M/s Abhishek M. Lodha, Mumbai.

Case No.: MUM/12/NOCAS/270
CHQ File No.: AAI/20012/69/2015
NOCAS ID: JUHU/WEST/B/102312/010
Site Address: CS No. 1A/664 of Malabar Hill Division, Alta Mount Road, B ward, Mumbai.

As per NOCAS, the proposed site lies in **Outer Horizontal Surface** and is at a distance of 14813 m AMSL from ARP Santacruz Airport.



The applicant had initially requested a height of 247.90m AMSL vide letter dated 12.11.2012 against which they were granted a height of 230.26m AMSL vide AAI letter dated 23.04.2013. The applicant reiterated their height requirement of 247.90m AMSL in their letter dated 18.11.2013. The height granted was revised to 242.88m AMSL vide letter dated 12.9.2014 as per the decision of AC in their meeting dated 11.7.2014 which was after the applicant had agreed and requested for revised height of 242.88m AMSL vide letter dated 11.07.2014. Applicant in his subsequent letter dated 22.7.2015 has reiterated for height of 247.90m AMSL due to increase in plot potential FSI.

The applicant had submitted MCGM letter dated 03.01.2014 (in original)

The case was initially heard in Appellate Committee meeting held on 30th January, 2014 wherein it was decided that the case to be processed at AAI, CHQ on receipt of documents from the applicant as well as from the AAI, Mumbai office. On receipt of documents, the case was processed at CHQ and was placed before Appellate Committee.

The case was then heard in the Appellate Committee Meeting dated 11.07.2014 wherein the committee observed that as per the examination the permissible height at the site is as under:

AGA Criteria - 311.90 m,
CNS Criteria - 242.88 m (due existing radar)
PANS-OPS – 247.90 m

The applicant was informed that a height of 242.88 m AMSL can be cleared for their project to which they agreed.

The Committee decided that the applicant to submit revised request for a height of 242.88m AMSL on receipt of the same, AAI to issue authorization for NOC for a height of 242.88m AMSL.

Accordingly authorization was issued for height of 242.88m AMSL vide letter dated 20.08.14.

Applicant vide letter dated 22.07.15 again appealed for higher height as the plot potential FSI has been increased for which one additional floor has been proposed.

The Committee in its meeting held on 27.8.2015 heard the applicant who stressed that their height requirement of 247.90m AMSL is required for utilizing the FSI granted and that one additional floor will be added. The Committee examined the MCGM letter issued on 03.01.2014, which was also taken into consideration in the earlier Appellate Committee of 11.7.2014. The Committee also reviewed the permissible height possible from AGA, CNS, PAN OPS criteria and observed that the height restriction is on account of CNS Criteria (existing radar).


The Committee then decided that AAI to review the permissible height based on CNS (Radar) criteria and submits the results to the Committee.

The case was examined by AAI and the maximum permissible height is maintained as 242.88m AMSL (same as per the approval of AC meeting dated 11.07.14).

The case was put up to this Committee as per the decision of the earlier Committee and the Committee was informed that the case was re-examined in AAI from CNS criteria (Radar) and the permissible height is 242.88m AMSL

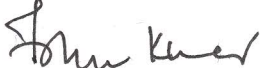
Committees' Decision:

The applicant to be informed that the maximum permissible height after re-examination is confirmed as 242.88m AMSL.


(A.K. Dutta)
MEMBER (ANS), AAI


(A K Bhardwaj)
DY. DIRECTOR, DGCA


(K.GOHAIN)
TECHNICAL EXPERT


(ARUN KUMAR)
JT. SECY, MOCA
CHAIRMAN, APPELLATE COMMITTEE

Place: New Delhi
Date: 6 January 2016