

BY SPEED POST

**IN THE COURT OF SMT. USHA PADHEE, PRINCIPAL SECRETARY TO
GOVERNMENT, HOUSING AND URBAN DEVELOPMENT DEPARTMENT, ODISHA,
BHUBANESWAR.**

(Appellate Authority under O.D.A. Act, 1982)

Appeal No. 72 of 2024

Under Section 18 (1) of the O.D.A. Act., 1982

Rashmita Naik.....Appellant

-vrs-

BDA, Bhubaneswar Respondent.

Order

Date 18.01.2025

The case record is put up today.

The proceedings taken up in person mode.

The Learned Advocate for the appellant is present, the OSD, ODA Act, Bhubaneswar Development Authority (BDA), Bhubaneswar [Respondent] is present.

This Memorandum of Appeal dated 26.12.2024 has been filed by Smt. Rashmita Naik (aged about 43 years), W/o Debanad Nayak, resident of Plot No. 102/A, Keshari Enclave, Unit-VIII, PO/PS- Nayapalli, Bhubaneswar, Dist- Khordha, Odisha under sub-section (1) of Section- 18 of the Odisha Development Authorities Act, 1982, [here in after referred to as "the Act"] registered as TP Appeal No.72/2024.

Heard the Parties.

The appellant filed the instant to set aside the impugned order dated 24.12.2021 passed by Authorized Officer, Bhubaneswar Development Authority in PBRUC Case No. 1045 of 2020 and communicated to the appellant vide letter No. 43323/BDA, Dt. 24.12.2024 on refusal of permission under provisions of the Schemes for Regularization of Unauthorized Constructions [here in after referred to as "SRUC"], 2019.

The allegation against the appellant is that, the applicant has submitted the application dated 04.02.2020 for regularization of one high-rise S/G+4 storied residential apartment building (having 20 numbers of Dwelling Units) over plot No. 168/3082 in Mouza-Patrapada under SRUC-2019. The height of the plan submitted for regularization duly signed by the architect and the applicant is 15.25 meter. The application was scrutinized and found that the submitted building plan is not complying with the minimum setback norm specified for building height of 15 meter or more and up to 18 meter in the aforesaid scheme. In this regard, show cause letter was issued specifying the non-conformity and incomplete application. The application was subsequently refused as no reply was submitted by the applicant on the aforesaid communication. The refusal was made on the ground of non-conformity of the scheme provisions and non-compliance of the observation made vide the show cause letter.

Perused the prayer of the appellant wherein it has been contended that, he has applied under SRUC-2019 for regularization of the said property. The BDA arbitrarily rejected his application without adhering due process of law and without providing him fair opportunity for the compliance of the show-cause notice. On refusal of the application the appellant was not intimated the same by BDA. The appellant obtained information through RTI application and got to know that his application has already been rejected/ refused and the amount deposited by him has been refunded.

After careful consideration of the submissions made by both parties, this Court observes that BDA is lacking in providing the opportunity to the petitioner to comply the show-cause. In view of the above the applicant is granted liberty to submit the requisite documents before BDA within a period of one week and BDA is directed to examine the submission made by the applicant, taking into consideration the provisions enshrined under SRUC and submit the compliance report within three weeks before this Court.

Accordingly, the appeal petition is disposed of.

Urgent copy of this order be supplied as per Rules and be also uploaded in the Department website.

Sd/-
(Smt. Usha Padhee)



GOVERNMENT OF ODISHA
HOUSING & URBAN DEVELOPMENT DEPARTMENT
3RD FLOOR, KHARAVEL BHAWAN, BHUBANESWAR, PIN-751001

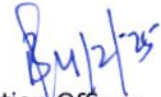
Memo No. 2381 /HUD., Date. 04.02.2025

Copy forwarded to the Vice-Chairman, Bhubaneswar Development Authority (BDA), Bhubaneswar /OSD (ODA Act), Bhubaneswar Development Authority (BDA), Bhubaneswar/ Planning Member, Bhubaneswar Development Authority (BDA)/ Commissioner, BMC, Bhubaneswar for information and necessary action.


Section Officer

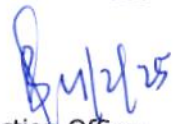
Memo No. 2382 /HUD., Date. 04.02.2025

Copy forwarded to Sri Rashmita Naikaged about 43 years, W/o- Debananda Nayak resident of plot no. 102/A, Keshari Enclave, Unit-VIII, PO/PS- Nayapalli, Bhubaneswar for information and necessary action.


Section Officer

Memo No. 2383 /HUD., Date. 04.02.2025

Copy forwarded to the Team Lead, TASU, Housing & Urban Development Department with a request to take necessary steps in order to make the said notice available in the official website of this Department.


Section Officer