

## THE MAFIA REVISITED

• By Dr. M.N. Buch

Manoj Mishra, an architect, has thought it fit to come to the rescue of the Housing and Environment Department, its officers and the Madhya Pradesh Special Project and Township Development (Development, Regulation and Control Rules), 2010. I have not used the word mafia to frighten people, but rather to awaken the people of Bhopal about the backdoor attempts to ensure that the Bhopal Development Plan, whether the existing one or that which might be framed in the future, is negated. Incidentally, to take up Manoj's refrain, Gabbar is a Johnny-cum-lately on the fright scene. At the Khyber Hari Singh Nalwa is used to frighten children, in Delhi it is Nadir Shah and in Iraq it is Chengiz Khan. Joking apart, I wish Manoj had done some thinking before shooting from the hip.

Manoj claims that the draft rules are aimed at creating satellite towns. The Oxford Dictionary defines satellite as under: "A town depending on a nearby larger town; something that is separated from or on the periphery of something else but nevertheless depending on control by it". Township, on the other hand, is defined as "A new area being developed for residential or industrial use by speculators; small town or village forming part of a larger parish". Evry in France is a satellite town to Paris in the Loire Valley, whereas La Defense is a township because it is a part of Paris. The education township which Jagran wants to develop at Mugalia Chhap may be a township, but it is not a satellite. Noida, Faridabad, Sonapat and other identified towns in the National Capital Region may be satellites, but Janakpuri, though Asia's largest single colony, is a part of Delhi. Raisen and Sehore can be developed as satellites of Bhopal, but a much larger Sahara States can under no circumstances be defined as a satellite. Manoj has some definitional problems here.

Before launching into me and rushing to the defence of the IAS fraternity, whose CR Manoj has written, he should have read the draft Rules and the Act. The main scheme of the Town and Country Planning Act is contained in sections 14, 17 and 19 of the Act. A Development Plan notified under section 19 is the definitional plan for the city. Section 24 talks about control of land use, but rules framed thereunder have to be designed to ensure that the Development Plan notified under section 19 is implemented in letter and spirit. These rules cannot supersede the Development Plan. This is reinforced by section 25 of the Act which categorically states, "After the coming into force of the Development Plan the use and development of land shall conform to the provisions of the Development Plan". What the draft rules attempt to do is to virtually scrap the Development Plan and they are also violative of the provisions of section 25 of the Act. One of the principles of parliamentary democracy is that an Act will always prevail over rules and rules, which are part of delegated legislation, cannot fly in the face of specific provisions of law. I stand by what I have said about by the Housing and Environment Department not being competent to determine by rules framed under the Town and Country Planning Act that the Krishi Jyot Uchattam Seema Adhinyam, 1960, will not apply to land to be developed under the draft rules. The argument given by Manoj is that this Act does not apply to diverted lands and the intention is to divert the land. Supposing it is not diverted because the promoter does not go ahead with the scheme? The application of law is not dependent on a hypothetical future situation. It applies to the situation as of now. In any case, any interpretation in this behalf lies within the domain of the Revenue Department and the Housing and Environment Department is functus officio in this behalf. If the Principal Secretary of the department concerned fails to give advice to the minister about the legal position, then I stand by my remarks that he has failed in doing his duty, notwithstanding Manoj Mishra's sympathy for him. I can only end with the comment

"Jo na samjhe woh anaadee hai"

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