TIMES CITY

GOING TO TOWN   SUDHIR VOHRA

Revive urban planning

In the last fortnight, there have been two hearings in Supreme Court on the issue of constitutional validity of the Delhi Act that was rushed by the Government through Parliament. In both hearings, the Court made it amply clear that it was angry and that the rule of law has to be upheld.

The next few weeks will prove to be critical for urban law and governance in the country. The possibilities are tremendous, but the probabilities terrifying, to use Joseph Stein's favourite phrase. The Court has shown tremendous restraint by not staying the Act, thereby avoiding a constitutional standoff between Parliament and the judiciary. It remains to be seen whether the executive will rise to the occasion and come up with a roadmap which could lead the capital into urban order and better planning and governance. What should be done? How should one draw this roadmap?

To begin with, the Central Government must realise that there are two distinct areas on which it must focus — urban governance and urban planning. The two must not be confused with each other. No amount of drafting planning norms, redevelopment policies and remaking master plans etc can be executed if the systems of urban governance are corrupt and rotten. The two issues are distinctly different.

With this as a basic premise, where do we go? Firstly, it seems important to send out the clear message that illegal building stock will not be tolerated whether it be on government land or not. That a huge amount of illegal building stock exists is a known

fact. But one must recognise that most of this has been created over the years for two reasons — increase in the needs of the family and profiteering by builders who tell the gullible not to worry.

The recent public notices by the ministry of urban development seeking public reactions to both the issues of one-time regularization (OTR) of unauthorised construction as well as of mixed land use need to be seen in professional light. The OTR public notice does not say how much penalty shall be imposed; it merely says as decided by the government from time to time. Not good enough.

One must know what the penalty scheme is, how the money is to be used and who will handle it. Surely not a municipality which has been named as one of the most corrupt organs by the World Bank. Such knee-jerk reactions only add to the confusion.

The best way to instil confidence in the rule of municipal law is to penalise the lawbreaker who has benefited economically in the past. The penalty for existing unauthorised constructions could be graded: identify the grossly illegal floors, make that information transparently available on the web; charge a penalty which is equal to the market value; and give the user a reasonable period of time to break it down himself. Put that money into an account controlled under court authority and set up a system wherein the penalty can be refunded after the building has come back to legal form.

Set up a municipal building tribunal consisting of professionals from the legal and urban sector; make it answerable to the courts, and remove the powers to survey and assess from the MCD; empower the tribunal to do all the functions of surveying, assessing, collecting penalties and ordering selective demolition till you find ways of changing your municipal governance systems to be at par with the civilised world's best practices. Let the corrupt municipal officials find it no longer lucrative to stay in the job.

All this will need tough political decisions. We live in a newly-empowered information age where TV channels arrive before the government machinery often does. This will mean taking a hard relook at our archaic municipal laws by professionals trained in the sector, not civil servants who have trained themselves to draft laws which leave huge loopholes to interpret and reinterpret. The common man now wants laws which are easy to read, easy to understand and to obey and has no time to live in confusion created by wily twists and turns of words. He also wants laws which he can respect not fear, and definitely not have contempt for.

(To be continued)