HARYANA RIGHT TO SERVICE COMMISSION
S.C.O. No. 38 & 39 (2nd FLOOR), SECTOR 17-A, CHANDIGARH-160017
E-mail: rtsc-hry@gov.in Telephone: 0172-2711050

No. HRTSC/SM-75/HSIIDC/2022/ 0749 Dated: 25.02.2022

Shri Vikas Gupta, IAS,
Managing Director,
HSIIDC, Sector 6,
Panchkula.
(email:mdhsiidchry@gmail.com)

Sub:- Regarding *suo moto* notice No. HRTSC/SM-75/HSIIDC/2022/0574 dated 15.02.2022.

I am directed to enclose a copy of order dated 25.02.2022 passed by Shri T.C. Gupta, Chief Commissioner, Haryana Right to Service Commission in respect of above cases for information and necessary action.

BY THE ORER OF THE HARYANA RIGHT TO SERVICE COMMISSION AT CHANDIGARH.

Haryana Right to Service Commission Estd. 2014 under HRTSA

(Sube Khan),
Under Secretary-cum-Registrar,
For Haryana Right to Service Commission

Encl: as above.

CC
Sh. Deepak Kumar,
Complainant

HARYANA RIGHT TO SERVICE COMMISSION
S.C.O. No. 38 & 39 (2nd FLOOR), SECTOR 17-A, CHANDIGARH-160017
E-mail: rtsc-hry@gov.in Telephone: 0172-2711050

ESTD. 2014 UNDER THE HARYANA RIGHT TO SERVICE ACT

ORDERS

HRTSC/SM-75/HSIIDC/2022 – Plot No.49 D&E, Sector 25, Part-II, HSIIDC, Panipat.

1. Sh. Deepak Kumar, R/o 281, Sector-12, HUDA Colony, Panipat, Haryana (9215051500, e-mail: deepak566@gmail.com)) had complained to the Commission through e-mail dated 07.01.2022 that he had applied for allotment for industrial plot measuring 1,000 sq mtr vide application No. N201FEB1 dated 15.02.2019 with application fee of Rs. 20,97,500/- vide challan No. 000174772624 dated 15.02.2019 along with all the requisite documents. He was allotted plot no. 49 D&E (measuring 1155 sq. mtrs), Sector 25, Part-II, Panipat for setting up a project of manufacturing of carpets items. He had deposited 15% of the plot cost on 27.06.2019 and the balance 75% was deposited as per the schedule mentioned in RLA. He got the possession on 01.10.2019 and applied for execution of conveyance deed which was executed in his favour on 23.10.2019. On subsequently visiting the local office of HSIIDC to submit the application for approval of building plan, it came to his knowledge that further services for his plot had been stopped by MD, HSIIDC vide his circular dated 13.02.2020. Further, no infrastructure such as road, sewerage and water line has been developed by HSIIDC since, due to which the applicant has been unable to set up his manufacturing unit. Taking cognizance of the complaint, as the issue is a notified service at Serial No. 113 "Sanction of Building Plan" under Haryana Right to Service Act, 2014, MD, HSIIDC was directed to take cognizance and to furnish a report by 25.01.2022. A reply has been received from his office on 07.02.22, which was found unsatisfactory. Consequently, MD-HSIIDC was issued a suo moto notice under Section 17 of the Haryana Right to Service Act, 2014 and asked to appear before the undersigned on 22.02.22 in person or through VC.

2. Shri Vikas Gupta, IAS MD-HSIIDC appeared before the undersigned on 22.02.22 in person along with Mr.Sunil Sharma CCI. On behalf of the complainant, his attorney Mr.Arun Kumar Singhal was present during the hearing. MD-HSIIDC reiterated the contents of the reply dated 07.02.2022 which stated that the records of the case had been forwarded to Director Industries in June, 2020 for further action. It further stated that vide office order dated 13.02.2020 of the Corporation, it has been directed that any service request with respect to industrial plots allotted in HSVP, Sector-25, Part-II Panipat by the Corporation be not entertained, the matter being under investigation. It was also conveyed that it may not be feasible to deliver service as regard such plots for which complaints have been received and the matter is under investigation. Since MD-HSIIDC had endorsed a copy of this reply to Shri Deepak Kumar, the complainant filed rejoinder on 08.02.2022 through email reiterating the request made in the original complaint and requesting for not only restoration of services but also to exclude the period with effect from 13.02.2020 to the date of restoration of services for the implementation of the project. During the hearing, MD HSIIDC, at the outset, itself informed that allotment of the plot to the

complainant was questionable and has been under inquiry since 2020. He further questioned the act of the complainant of reaching out to the Commission directly instead of going to FGRA and SGRA. He was informed that the Commission has vested powers of taking suo moto cognizance in cases pertaining to notified services and there is no harm in citizens reaching out to the Commission directly, especially considering the present scenario wherein FGRAs and SGRAs across Departments including HSIIDC, have been majorly dormant for the past 8 years since the enactment of Haryana Right to Service Act, 2014. Shri Arun Kumar Singhal reiterated the request made in the original complaint as well as in the rejoinder dated 08.02.2022. He also stated that the inquiry in the allotment of plots was started on the complaint made by Shri Ved Dua, press reporter on 09.08.2019 which he has already withdrawn and submitted an affidavit to all the authorities including MD, HSIIDC. He also stated that to the best of his knowledge, the inquiry has been conducted by the Director of Industries who has recommended to file the complaint as same has been withdrawn by the complainant in the year 2020.

3. I have carefully considered facts and circumstances of this case, submissions made during the hearing and perused all the documentary evidence. It is a fact that Shri Deepak Kumar is an allottee of the plot by HSIIDC and let alone, setting aside the allotment, there is no finding till date by anyone that there was any malpractice in allotment of this plot to him. Consequently, there is not even a question of issuance of any notice to him for cancellation of the allotment. Merely because some investigation in allotment of the plot is going on, it does not give any right to HSIIDC or any organisation to stop delivery of service like sanction of building plan for more than two years. If the building plan is sanctioned and later on, it is found that the plot was allotted on fraudulent grounds or the allotment is found to be irregular, HSIIDC can always cancel the allotment of plot by following due process of law. Merely passing of a building plan and construction thereon by the allottee cannot override the illegality committed, if any during allotment process. The allottee is not here seeking to transfer the plot which HSIIDC could have withheld on the ground that it might create 3rd party rights. In this case also, it can be contended that since a transferee cannot get a better title than that of the transferor and hence, even this restriction cannot be placed merely because some investigation is going on. However, no law, regulation or instructions of HSIIDC empowers any officer to issue such dictatorial orders to stop the service like sanction of building plan for such a long period of more than 2 years. The orders dated 13.02.2022, though not authorized by any law, regulation or instructions, might have been issued in good faith in the interest of organisation but same cannot continue for an indefinite period specially in respect of a service like sanction of Building Plan where the ownership rights are not being alienated. The complainant has been suffering owing to this action on the part of HSIIDC which has not been able to quote any regulation, instruction or law which empowers it to issue such embargo. However, it is admitted that HSIIDC or the Government has every right to investigate into complaint of any wrong doing despite

HARYANA RIGHT TO SERVICE COMMISSION
S.C.O. No. 38 & 39 (2nd FLOOR), SECTOR 17-A, CHANDIGARH-160017
E-mail: rtsc-hry@gov.in Telephone: 0172-2711050

the fact that the complainant has withdrawn the complaint. After conclusion of the investigation / inquiry, HSIIDC can take steps as deemed fit including cancellation of the allotment but till then, it cannot stop the delivery of notified service like sanction of Building Plan specially when the embargo is in operation for unreasonably long period of more than two years. Construction of building and starting of industrial activity thereon would have given fillip to the industrial development of the area resulting in employment and generation of revenue to the State which is the objective of HSIIDC. Therefore, considering all facts and circumstances, it is held that there is non-delivery of a notified service in notified timeline in this case and violation of the provisions of the notification issued under Haryana Right to Service Act, 2014. MD HSIIDC is, therefore, directed to take a decision on the Building Plan application of the complainant as per applicable rules and provide other notified services within 7 days of this order otherwise the Commission will hold him responsible for further delay.

Sd/-
(T.C. Gupta)
CC, HRTSC
25.02.2022