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

No. HRTSC/SM-81/HSVP/ 1268 **Dated:**01.04.2022

To

1. Sh. Ajit Bala Joshi, IAS
Chief Administrator,
HSVP, Panchkula
E-mail:cahsvp01@gmail.com

2. Sh. Sudhir Chauhan
STP, HSVP
Gurugram
E-mail: ctphsvpgf@gmail.com

Subject: - Orders regarding Suo-moto notice no. HRTSC/SM-81/HSVP/0883-884 dated 08.03.2022.

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I am directed to forward herewith a copy of the order dated 31.03.2022 passed by Sh. T.C. Gupta, Chief Commissioner, Haryana Right to Service Commission, Chandigarh in respect of above case for information and compliance.

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

Encl: as above.

Haryana Right to Service Commission Estd. 2014 under HRTSA

(Sube Khan)
Under Secretary-cum-Registrar
For Haryana Right to Service Commission
E-mail: rtsc-hry@gov.in

Endst. No. HRTSC/SM- 81/HSVP/ 1269 **Dated:**01.04.2022

A copy of the above is forwarded to Sh. Lal Singh (Complainant) for information.

(Sube Khan)
Under Secretary-cum-Registrar
For Haryana Right to Service Commission
E-mail: rtsc-hry@gov.in

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Interim Orders

(In respect of Suo Moto notice no. HRTSC/SM-81/HSVP/0883-884 dated 08.03.2022)

1. Sh. Lal Singh on behalf of Jai Gurudev Govt. Employees Co-operative GHS Ltd. Rewari had submitted a complaint vide letter dated 30.11.2021 that their Society submitted the building plan of plot no. GH-3, Sector10, Rewari to Estate officer, HSVP, Rewari, who further forwarded the same to STP, HSVP, Gurugram vide memo no. 341 dated 09.07.2021. A period of more than 3 months had elapsed but no action had been taken by STP, HSVP Gurugram in this regard. Taking cognizance of the issue, as it is a **notified service at serial no. 22 namely, fresh building plan (other than residential),** letter vide memo no. HRTSC/Comp-153/HSVP/2021/3547 dated 28.12.2021 followed by reminder dated 31.01.2021 were sent to the Chief Administrator, HSVP, Panchkula to furnish an action taken/ status report to the Commission by 16.01.2022. The Commission did not receive any reply regarding the delay in delivery of this notified service and therefore, a suo-moto notice was issued to Sh. Ajit Balaji Joshi, IAS, Chief Administrator, HSVP, Panchkula (Respondent No.1) and Sh. Sanjeev Maan, STP, HSVP Gurugram (Respondent No. 2) to ascertain the reasons for delay in delivery of notified service beyond the prescribed timelines and further to decide whether any action for imposition of penalty /recommendation of departmental action is called for.

2. Accordingly, a reply has been received in this regard vide Memo No. 6/34 dated 11.03.2022 from the Respondent No. 2, Sh. Sudhir Chauhan, STP, HSVP, Gurugram. In the reply, it was stated that the Building Plan of GH site no. 3, Sector-10, Rewari forwarded by EO, HSVP, Rewari vide memo no. 341 dated 09.07.2021 was received in his office on 15.07.2021. While the building plan was under examination, the STP, HSVP was promoted and transferred from the said office on 02.08.2021. It was further submitted that thereafter, the aforesaid matter was discussed with Administrator HSVP, Gurugram by ATP, HSVP, Gurugram and the building plans were submitted to Administrator, HSVP, Gurugram on 13.08.2021. It was submitted that the Administrator, HSVP, Gurugram had further forwarded the building plan to STP, Gurugram on 23.08.2021 being the link officer as per order dated 20.07.2015 of the Additional Chief Secretary to Govt. Haryana, Town & Country planning Department at Serial No. 9 of STP link officer order. The file was, however, returned back on 27.08.2021 with the comments stating that the necessary action on the file is to be

taken by STP, HSVP, Gurugram and that he did not have the charge of STP, HSVP, Gurugram. It was further submitted that the Respondent No. 2 had been assigned the additional charge as the Senior Town Planner, HSVP, Gurugram vide order no. 1/20/2022-1TCP dated 02.03.2022 in addition to his current assignment and thereby, the Respondent No.2 virtually joined on 04.03.2022 and on 07.03.2022 in person. Further, it was conveyed that technical approval of the building plan of GH-03, Sector-10, Rewari has been given to EO, HSVP, Rewari-cum- Member Secretary of Building Plan Committee vide the office memo no. 5842 dated 08.03.2022.

3. In compliance of the suo moto notice dated 08.03.2022 to Sh. Ajit Balaji Joshi, IAS, Chief Administrator, HSVP, Panchkula Respondent No. 1, a reply has been also received vide Memo. No. 44384 dated 17.03.2022. In the preliminary submissions, the maintainability of the current suo moto notice qua the Respondent No. 1 has been challenged on the grounds that the said Respondent is neither a Designated Officer nor an Appellate Authority under the Act for the said notified service. It is further submitted that the notice was issued for the service at Sr. No. 22 (building plan other than residential), however, when the cause of action accrued, the service was Notified at Sr. No. 129 as the new services were notified only on 03 December, 2021. It was finally submitted that since the complainant had not filed any complaint with the Appellate Authority for not providing the services in time despite earlier objections and hence contended that the complainant did not follow the proper procedure which is mandated under the Act.

4. The Respondent No. 1 further admitted the contents of Para 1, 2 and 3 of the suo moto notice issued dated 08.03.2022 to the extent that building plan was submitted to the EO, HSVP, Rewari who further transmitted the same to STP, HSVP, Gurugram. It was contended that a complaint was directly filed to the Commission by passing the procedure as per gazette notification of the Govt. under the Act and that the preliminary submissions be considered while reading the present submissions. Further, it was submitted that the post of STP, HSVP was lying vacant from 02.08.2021 to 07.03.2021 due to promotion of Smt. Madhusmita Moitra, the then STP as CTP. It was submitted in this regard that promotion, postings etc. of the STPs fall under the domain of Worthy Additional Chief Secretary, Town Country Planning and outside the jurisdiction of the Respondent No. 1. It was also submitted that the building plan had been approved subject to the NOC from Airport Authority of India and Fire Office after the posting of Sh. Sudhir Chauhan (on additional charge) vide order dated 02.03.2022 and the Estate Officer was accordingly directed to issue Building plan subject to clearance of any due etc.

5. It was finally submitted that the present suo moto proceedings are not maintainable qua the Respondent No. 1 and that the said Respondent is dedicated and attentive in performing the supervisory duties as the Chief Administrator of HSVP. It was pleaded that since the building plan is approved and that Sh. Sanjeev Mann and Sh. Sudhir Chauhan had already been put on notice for filing replies with the Commission, it may be considered that the grievance of the complainant is redressed and the personal appearance of the Respondent No. 1 be exempted.

6. On careful perusal of the reply dated 11.03.2022 of the Respondent No. 2, it transpired that the then STP, Gurugram, Sh. Sanjiv Mann wrongfully refused to entertain the impugned case of the Society because of which it was pending since August, 2021 till March, 2022. Further, in the opinion of the Commission, the Administrator, HSVP, Gurugram should have also taken steps when the building plan was not approved within the RTS timeline. Therefore, the Administrator, HSVP, Gurugram along with the then STP, Gurugram, Sh. Sanjiv Mann was directed to appear before the Commission on 25-03-2022 personally or through VC.

7. Accordingly, the Respondent No. 2, Sh. Sudhir Chauhan appeared in person before the Commission on 25-03-2022 and Ms. Jaspreet Kaur, IAS, Administrator HSVP Gurugram along with the STP, Gurugram, Sh. Sanjiv Mann appeared before the Commission via VC. The Respondent No. 2 reiterated the submissions that the Administrator, HSVP, Gurugram had further forwarded the building plan to Sh. Sanjiv Mann, STP, Gurugram on 23.08.2021 being the link officer as per order dated 20.07.2015 of the Additional Chief Secretary to Govt. Haryana, Town & Country planning Department at Serial No. 9 of STP link officer order. The file was, however, returned back on 27.08.2021 with the comments stating that necessary action on the file was to be taken by STP, HSVP, Gurugram and that he did not have the charge of STP, HSVP, Gurugram. On being questioned as to why this responsibility as link officer was abdicated by him, Sh. Sanjiv Mann submitted that he was unaware of the order dated 20.07.2015 regarding STP link officer issued by the Additional Chief Secretary to Govt. Haryana, Town & Country planning Department. The Administrator, HSVP Gurugram, Ms. Jaspreet Kaur, IAS also claimed ignorance in the matter and submitted that she had written to the Chief Administrator, HSVP requesting for posting of STP and seeking further guidance in this matter.

8. The case has been considered in detail and after careful perusal of all the contentions and submissions of the Respondents and the relevant provisions of the Act, I have come to the conclusion that great injustice has been done to the complainant GH Society comprising of numerous citizens whose building plans were pending for more than eight months for no fault on their own part but due to administrative negligence on the part of the

officers and officials of the Haryana Shahari Vikas Pradhikaran and STP, Gurugram. The Respondent No. 1, Sh. Ajit Balaji Joshi, IAS, who is the Chief Executive and is entrusted with the supervisory control being the Chief Administrator, has contested the maintainability of the suo moto proceedings on three preliminary grounds:

i) That he is neither a Designated Officer nor an Appellate Authority notified under the Haryana Right to Service Act, 2014 for the said notified service.
ii) That the notice was issued for the service at Sr. No. 22 whereas when the cause of action accrued, the service Sanction of Building Plan was at Sr. No. 129 as the new services were notified only on 03 Dec, 2021.
iii) That the Commission ignored the fact that complainant has not filed any complaint to the Appellate Authority for not providing service in time despite earlier objections and thereby, the proper procedure had not been followed by the Complainant for deficiency in providing services which is mandatory as per notification under the Act.

To deal with the above objections, let the provisions of the Act and Rules be examined first in this regard. Section 17 (1) (b) and (h) and Section 17 (2) of the Haryana Right to Service Act, 2014 which are relevant for the purpose are re-produced as below: -

17. Powers and Functions of Commission

17 (1) It shall be the duty of the Commission to ensure proper implementation of this Act and to make suggestions to the State Government for ensuring better delivery of services. For this purpose the Commission may,-

b) Take suo moto notice of failure to deliver service in accordance with this Act and refer such cases for decision to the First Grievance Redressal Authority or the Second Grievance Redressal Authority or pass such order, as may be appropriate;

h) Impose penalty on Designated Officer or any other official involved in the process of providing such service up to a sum of twenty thousand rupees, as deemed fit under the circumstances of the case and allow compensation up to five thousand rupees, to be paid to eligible person by defaulter;

(2) Where the Commission is satisfied that there are reasonable grounds to inquire into a matter arising out of the provisions of this Act, it may, suo moto, initiate an inquiry in respect thereof.

(3) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:- a) Summoning the parties; b) Receiving oral evidence on oath or written evidence on affidavits; c) Requiring the discovery and inspection of

documents; d) Requisitioning of any public record from any office; e) Obtaining copies of record from any court in accordance with law; f) Issuing summons for examination of witnesses or documents; and g) Any other matter, which'h may be prescribed.

Hence, it is evident that the powers and functions of the Commission are governed by the Section 17 of the Haryana Right to Service Act, 2014. The Section 17 (1) (b) and Section 17 (2) provides for discretionary powers to the Commission to initiate suo moto inquiry if it is satisfied that there are reasonable grounds to inquire into a matter arising out of the provisions of this Act. Further, the Section 17 (3) vests the Commission the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908, while inquiring into any matter under this section and further that Section 17 (1) (h) enables the Commission to take action and impose penalty on the Designated Officer or any other official involved in the process of providing such service. Thus the provisions of Act makes it amply clear that the contention as raised by the Respondent No. 1 are against the true spirit of the RTS Act, 2014. In this case, the building plans of the Group Housing Society were pending for more than 8 months. Even though Government i.e. Additional Chief Secretary to Govt. of Haryana Town & Country Planning Department had issued orders dated 20.07.2015 providing for link officer in case the main officer is on leave/not available, same were not in the knowledge of Sh. Sanjeev Maan, STP, Gurugram. The Administrator, HSVP also could not find out these orders and ask STP, Gurugram to examine the building plans in the absence of regular STP, HSVP, Gurugram. She claimed during the personal hearing that she had made references to the Chief Administrator, HSVP in this regard and requested for posting of STP, HSVP. On receipt of such a reference, CA, HSVP who is guided by dozens of officers in the Head Quarters, should have apprised the Administrator about the orders of the Govt. dated 20.07.2015 and directed the Administrator, HSVP, Gurugram as well as STP, Gurugram to entertain the case. Instead, it has been pleaded that the posting of STP, HSVP is to be done by the Government. The provision of link officer has been made by the Govt. in respect of Administrative Secretaries, Heads of Departments and also in respect of various officers of Town & Country Planning Department by Additional Chief Secretary to Govt. Town & Country Planning Department to take care of such exigencies. As far as notification of service at sr. no. 129 of the old notification or sr. no. 22 of the new notification is concerned, it is not relevant because the only difference between the two notifications is that the notified timeline earlier was 30 days which has been reduced to 6 days vide notification dated 03.12.2021. The Commission is inclined to consider 30 days as the notified timeline but still, the case is badly delayed by

approximately 7 months. Therefore, the Commission finds no merits in the technical points put forth by Respondent no. 1 regarding maintainability and reject the same. The Commission will act and intervene by taking suo moto notice whenever it finds that the common man is being harassed by throwing the provisions of the RTS Act to the wind as in the present case. There is abdication of responsibility on the part of Sh. Sanjeev Maan, STP, Gurugram who claimed ignorance of the orders dated 20.07.2015 and refused to examine the case even though it was written on the file that there were precedents to this effect. There is negligence on the part of Administrator, HSVP, Gurugram who could not locate these orders or on the basis of past precedents, did not order STP, Gurugram to technically examine the building plans and there is apparently gross negligence on the part of Respondent no. 1 by not providing guidance to the subordinate offices. Accordingly, finding no merit in the reply, this Commission directs the Respondent No. 1, Sh. Ajit Balaji Joshi, IAS, Chief Administrator, HSVP to personally appear before it on 5th April 2022 at 12.00 Noon. However, finding no fault on the part of Sh. Sudhir Chauhan, STP, HSVP, Gurugram now promoted as CTP, the suo moto notice issued to him is hereby dropped.

-sd-
(T.C. Gupta)
CC, HRTSC

Haryana Right to Service Commission
Estd. 2014 under HRTSA

Dated: 31st March, 2022