



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

HRTSC/ File no. 101/SM-150/5430

Dated: 19.12.2022

To

The Chief Administrator,
HSVP, Haryana,
Panchkula.

Subject: - Interim order regarding Suo-moto notice no. HRTSC/ File no.101/SM-150/1582 dated 22.04.2022.

I am directed to forward herewith a copy of the order dated 16.12.2022 passed by Sh. T.C. Gupta, Chief Commissioner, Haryana Right to Service Commission, Chandigarh in respect of above case for information and compliance and to further direct you to submit a final report in this regard by 30.12.2022 failing which you are directed to be present before the Commission at 10:00 am on 03.01.2023.

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



(Hitender Kumar, HCS)
Secretary

For Haryana Right to Service Commission
E-mail: rtsc-hry@gov.in

Endst. No.HRTSC/File no. 101/SM-150 5431

Dated: 19.12.2022

A copy of the above is forwarded to the following for information

1. The EO,HSVP, Faridabad, Haryana.
2. Smt. Vimla Rani (Complainant)

(Hitender Kumar, HCS)
Secretary

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/File no. 101/SM-150/1582 dated 22.04.2022

1. Smt. Vimla Rani W/o Sh. Vijay Shankar Gupta, R/o #1247, Sector-19, Faridabad had submitted a complaint with the Commission, vide e-mail dated 29.12.2021 that the original buyer of the aforesaid residential plot was allotted this plot in 1979 (received allotment letter as well) which was sold twice before being re-allotted to her in 1995. An order was also passed by the Administrator, Faridabad exercising the powers of CA, HSVP, Faridabad in 1995 stating extension fee should not be charged in this matter but extension fee of Rs. 7,60,797/- was being demanded from her. Taking cognizance of the issue, as it is a **notified service at serial no. 29 namely, No dues Certificate, for which the notified period is 03 days**, a letter dated 13.01.2022 was sent to the Estate Officer, HSVP, Faridabad to take cognizance and furnish action taken/status report to the Commission by 22.01.2022. In reply, a memo dated 01.02.2022 was received from the EO, HSVP, Faridabad vide which, he intimated that occupation certificate of the said plot is not available in their office. Hence, the PPM system of their office was showing extension fees due against this plot. Further, he had stated that as he was not able to trace the file he had called the complainant to their office with the record and after examining the record, he would take the action in the matter regarding issuance of no dues/demand notice. Consequently, a letter dated 10.02.2022 followed by reminders dated 09.03.2022 and 29.03.2022 were sent to the EO, HSVP, Faridabad vide which he was advised to place the record keeper under suspension and also lodge FIR against him by name in all such cases so that this menace is checked as it has become a trend in their office to misplace the files or give non traceable report. He was also directed to send the name of the defaulting official to the Commission vide letter dated 01.03.2022, 24.03.2022 and 08.04.2022 respectively but no reply had been received in this regard. Although the complaint has been resolved partially after the intervention of the Commission, a suo-moto notice dated 22.04.2022 was issued to Sh. Amit Kumar, HCS, EO, HSVP, Faridabad for not furnishing the report/reply as directed by the Commission and failing to update the records of the complainant in the PPM and further to decide whether any action for imposition of penalty /recommendation of departmental action is called for. He was directed to furnish a reply by 05.05.2022 and appear before the Commission on 09.05.2022.

2. Accordingly, a reply was received in this regard vide Memo No. 3774 dated 05.05.2022 and rejoinder was received vide Memo No. 3850 dated 06.05.2022 from Sh. Amit Kumar, HCS, EO, HSVP, Faridabad. In the reply dated 05.05.2022, it was

submitted that the amount of Rs. 7,61,938/- was waived off as per direction of the Commission and the applicant was intimated regarding the same. It was further submitted that at present, there were no dues against the said plot in the PPM system and applicant Smt. Vimala Rani was directed to apply for no dues certificate online. In the rejoinder to the reply dated 06.05.2022, it was submitted that a committee had been constituted by the Respondent to inquire into the matter and take further action in this regard. The Respondent, Sh. Amit Kumar, HCS, EO, HSVP, Faridabad appeared before the Commission via VC on 09-05-2022. After careful consideration of all the responses received in the matter, the Commission observed in the Interim Orders dated 16.05.2022 as under:

“The Commission in this regard is of the view that as the orders were passed in favour of the allottee on 20.11.1995, the same should have been implemented and PPM updated accordingly. Further, he was questioned as to why he had asked the applicant to apply for completion certificate again if a competent authority has already given a finding to this effect. The Respondent submitted that he intended to process the application for no due certificate after completion certificate is issued. He stated that once the complainant applied for completion certificate, he would send the file to Administrator, HSVP, Faridabad to update the deemed date of completion on the PPM and further send the same to Headquarters in order to generate a completion certificate. The Commission was not satisfied with the submission because there should be no requirement to apply for completion certificate again as the matter had already been decided by the Administrator HSVP Faridabad nearly 25 years ago. This process will cause unnecessary hardship and delay in acquiring the no due certificate for the citizen, who has already faced an inordinate delay of more than 25 years. The Commission directs the Respondent to implement the orders of Administrator HSVP Faridabad dated 20.11.1995 and update the deemed date of completion in the PPM under intimation of the Commission and submit an action taken report in this regard by 31.05.2022. The Respondent is also directed to verify and correct the Principal dues reflecting on PPM on the applicant’s ID as complained by the allottee. Further, the Complainant is directed to apply online for the no due certificate, once the PPM is updated. As for the second issue concerning the missing file, the Respondent submitted that a committee has been formed for conducting inquiry in this matter and the official responsible for missing the plot file will be traced at the earliest. It is pointed out that no details of the committee or its members have been provided. The Commission in this regard records its displeasure for the delay caused by EO HSVP Faridabad in fixing responsibility for misplaced files and thereby causing undue hardships to citizens while availing the notified services. He is directed to submit the report with findings of the committee and further action taken in this matter by 31.05.2022. Post this, the matter will be decided by the Commission.”

3. Following this, another reminder letter dated 22.06.2022 was issued to the Estate Officer, HSVP, Faridabad to respond by 07.07.2022. A response vide letter dated

28.06.2022 was received from the Estate Officer wherein he stated that the No dues certificate was approved on 16.05.2022. It was also submitted that the matter of treating the Administrator's order as Occupation Certificate had been sent to the HQ, Panchkula through the Administrator vide letter no. 3902 dated 09.05.2022 as the old occupation certificates are only updated in PPM with the approval of HQ, Panchkula. Upon finding the response of the Estate Officer incomplete regarding the non-submission of action taken report & comments regarding action taken on missing file, last opportunity was granted vide another reminder dated 04.07.2022 to respond by 18.07.2022, failing which ex-parte orders would be passed. Further, a letter dated 04.07.2022 followed by three reminders dated 29.07.2022, 18.08.2022 and 05.09.2022 were sent to the Administrator, HQ, HSVP, Panchkula to submit comments upon the Estate Officer's response regarding the PPM updation. Upon the non-responsiveness of the office of the Administrator (HQ), HSVP despite multiple reminders, exercising the powers vested in the Commission under Section 17(3) of the Haryana Right to Service Act, 2014, a notice was issued to the Secretary, HSVP, Haryana to produce the entire record of the case before the Commission on 18.10.2022 at 10:30 a.m and to explain as to how the letters & reminders to the Administrator (HQ), HSVP were dealt with. However, on the hearing dated 18.10.2022, even after waiting till 11:05 am, neither the record of the case was brought before the Commission nor did the Secretary, HSVP appear before the Commission despite giving his assurance to do so when he was reminded telephonically. Accordingly, a letter dated 26.10.2022 was sent to the Chief Administrator, HSVP with directions to take cognizance of the matter pending at the level of HSVP HQ despite multiple reminders from the side of the Commission & produce the entire record of the case before the Commission on 07.11.2022 at 10:30 a.m. Finally, the hearing dated 07.11.2022 was attended by Sh. Nitin, Legal Assistant as a representative of the CA, HSVP and a letter dated 04.11.2022 from the CA, HSVP containing the details of the case proceedings as mentioned in the preceding paragraphs & the observations of the HQ was submitted before the Commission wherein it was submitted that approval for the updation of the OC date in PPM was sought from the HQ by the Estate Officer, HSVP, Faridabad for the first time vide letter dated 09.05.2022 which was received on 18.05.2022 at HQ. It was also stated that vide the response dated 19.05.2022 over PPM, the office of the CA, HSVP had reverted to the Estate Officer with a request to report whether decision had been taken with the approval of CA, HSVP to implement the orders dated 05.02.1996 of the Administrator, HSVP, Faridabad. In response to the same, a letter dated 30.05.2022 was received from the Estate Officer wherein it was stated that as per records, no approval for implementation had been received from the CA, HSVP reply was accordingly sent to the Supt. Urban Branch, Panchkula. Regarding the missing file, it was stated that a three member committee was constituted on 01.07.2022 for inquiry in the matter & had found that the file was not traceable post being put up to the dealing Assistant Smt. Chander Kanta. Thus, a notice was



issued to her to explain her position within a week. Regarding the letters from the Commission to the Administrator HQ, HSVP, it was stated that directions were issued to the concerned Urban Branch to send their comments to the Administrator HQ post which a proposal regarding challenging the orders of Administrator HSVP, Faridabad dated 05.02.1996 was made & the concerned file was put up to the CA, HSVP on 07.10.2022. Following this, the CA, HSVP had directed the Legal Cell to examine the matter on 11.10.2022. The legal opinion was submitted on 14.10.2022 wherein it was stated that since the order dated 05.02.1996 was not challenged by the Estate Officer, Faridabad, it had attained finality & thus charging of extension fees w.e.f the date of order of Administrator HSVP, Faridabad is not advised. It was also stated the allottee is required to obtain the full occupation certificate/completion certificate by applying online through PPM and same can be issued after inspection by the Estate Officer. It was further submitted that vide the opinion of Urban Branch dated 28.10.2022, it was proposed that after implementing the order of Administrator HSVP, Faridabad dated 05.02.1996, the same may be updated in the PPM system. Following this, the CA, HSVP sought opinion of the Advocate General, Haryana which was given by the Sr. Addl. Advocate General, Haryana on 02.11.2022 with a recommendation to ask the allottee to apply online for the issuance of occupation certificate, without any demand of extension fees.

4. The Commission has carefully considered all the facts and circumstances. It is clear from the proceedings especially of the Headquarters of HSVP that instead of redressing the grievances of the allottee, they are trying to confuse the issue. The following two issues are involved in this case:-

- (i) Whether the allottee is liable for payment of extension fees after 1984-85 or not and
- (ii) Entering the date of Occupation Certificate in respect of this house in PPM so that the first issue above can be addressed by the system itself otherwise it will go on calculating the extension fees.

It is to be noted that neither the allottee is requesting for issuance of an Occupation Certificate nor the Commission has directed anywhere to issue the Occupation Certificate now either in the current date or back date. Hence, all the contentions in this regard that the same cannot be issued without submission of application etc. are highly misplaced. A wrong presumption is being made by the HSVP offices to frustrate the requests of the allottee. The then Administrator, HUDA, Faridabad exercising the powers of Chief Administrator, HUDA under section 17 (5) of the HUDA Act, 1987 had decided on 05.02.1996 that since the house had been constructed during 1984-85, it does not make him liable for payment of any extension fees. The Chief Administrator office had rather asked the Estate Officer vide letter dated 19.05.2022 whether any approval had been taken from Worthy Chief Administrator, HSVP, Panchkula to implement the impugned order dated 05.02.1996 or not. In the opinion of the Commission, this is nothing but

harassment of the allottee because in 1996, there were no such instructions that the Estate Officer had to obtain any permission from the CA, HSVP [Then HUDA] to implement the orders passed by the Appellate Authority. It is for the first time in the year 2007 that the comprehensive instructions in this regard were issued by the CA, HUDA vide memo no. DDA-I-2007/5159 dated 07.08.2022 that the Estate Officers will seek the approval of the CA, HSVP before implementing the orders. Same finds mention in the orders dated 11.09.2007 also which has been sent by Sh. A.P. Singh Parmar, District Attorney in his letter no. DA/2022-1566673 dated 08.09.2022 on behalf of the CA, HSVP while submitting reply in another complaint case regarding Occupation Certificate in respect of House no. 92-P, Sector, 11-12, Panipat. Hence, prior to issuance of these instructions, the Estate Officers were taking decisions at their level either to implement the orders or to file Revision Petition against those orders. Therefore, the orders dated 05.02.1996 have attained finality as same have not been challenged till date and the allottee is not liable to pay the extension fees which has been waived off by the Estate Officer and communicated to the allottee also. However, unless a presumptive date of Occupation Certificate is entered in PPM, it will continue to calculate the extension fees payable by the allottee and issue was limited only to that which the CA, HSVP was required to resolve. However, they have proceeded on a wrong tangent as if the allottee is asking for issuance of a fresh Occupation Certificate and the Commission is directing for issuance of the same. No, not at all. The Commission is only interested to resolve the grievance regarding the non-payment of extension fees so that the No Dues Certificate can be issued and the allottee can avail other services. A presumptive date of Occupation in this case, say 31.03.1985, can be entered which can resolve the issue. However, as has been the tendency of HSVP in many cases of late, it has been adopting a confrontationist approach with the Commission instead of taking its orders in right perspective and concentrate its energies on resolving the real issues. The Commission has observed that the officers of the HSVP, specially of the HQs are evading supply of documents, fixing the responsibility for late decisions on the references sent by the field officers etc. which is not at all appreciable. Therefore, a final opportunity is given to the CA, HSVP to resolve the issue of non-payment of extension fees and entering a presumptive date of Occupation/Completion Certificate in their record i.e. PPM so that this issue can be closed. The CA, HSVP is directed to submit a final report in this regard by 30.12.2022 failing which he is directed to be present before the Commission at 10:00 AM on 03.01.2023 with relevant records.

December 16th, 2022

