



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

File No. HRTSC/Comp-201/HSVP/ 2022/ 875

Dated: 24.02.2023

To

1. The Estate Officer-II,
Haryana Shehri Vikas Pradhikaran,
Gurugram, Haryana.
E-mail: eogghuda2@gmail.com
2. Sh. Sanjeev Singla, HCS,
the then Estate Officer-II,
Haryana Shehri Vikas Pradhikaran,
Gurugram, Haryana.
E-mail: eogghuda2@gmail.com
3. Sh. Vikas Saini,
Junior Engineer, O/o Estate Officer-II,
Haryana Shehri Vikas Pradhikaran,
Gurugram, Haryana.
E-mail: eogghuda2@gmail.com

**Subject:- Complaint regarding Transfer Permission Letter includes:-
Transfer Permission Letter -in respect of H.No.383, Sector 47,
Gurugram (Sh. Pankaj Jindal).**

Sir,

I am directed to forward herewith a copy of the Final order dated 24.02.2023 passed by Sh. T.C. Gupta, Chief Commissioner, Haryana Right to Service Commission, Chandigarh in respect of above case for information and compliance.



(Signature)
(Sube Khan)

Under Secretary-cum- Registrar,
Haryana Right to Service Commission
E-mail: rtsc-hry@gov.in

Endst. No. HRTSC/Comp-201/HSVP/ 2022/ 876

Dated: 24.02.2023

A copy is forwarded to the following:-

1. The Chief Administrator, HSVP, Panchkula for information and necessary action please. (E-mail: hsvp.rts@gmail.com).
2. Sh. Pankaj Jindal, H.No 383, Sector 47, Gurugram, Mobile 9818136002, E-mail:- panjindal@yahoo.com for information.

(Signature)
(Sube Khan)

Under Secretary-cum-Registrar,
Haryana Right to Service Commission
E-mail: rtsc-hry@gov.in



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FINAL ORDERS

In respect of Complaint Case 201 of 2022, Sh. Pankaj Jindal V/s EO-II, HSVP, Gurugram

1. Sh. Pankaj Jindal had submitted a complaint to the Commission vide e-mail dated 13.07.2022 regarding the rejection of his application for Transfer Permission Letter of his House no. 383, Sector 47, Gurugram. In this regard, he had submitted an application dated 06.07.2022 to the EO-II, HSVP, Gurugram for transfer permission. However, the same was rejected with an observation that there is some vacant land behind the house and as per revised approved demarcation vide memo 87627 dated 27.05.2022, the size of the plot has increased from 180.5 sqm to 210.37 sqm. He had stated in his complaint that HSVP had put a condition to buy the extra land before issuing him the Transfer Permission, thereby forcing him to purchase the vacant land behind his house after 14 years of the construction. It was also mentioned in his complaint that till that date, HSVP had never issued him any letter/information regarding the revised demarcation. Taking cognizance of the issue, as it is a notified service at Serial no.1 "Transfer Permission Letter" of Haryana Govt. Gaz.(Extra.), Dec. 3, 2021 (AGHN. 12, 1943 SAKA) of HSVP, a letter dated 14.07.2022 was issued to the Estate Officer II, HSVP, Gurugram, Haryana to take cognizance and furnish action taken/status report to the Commission by 01.08.2022. In reply, a memo no. 6256 dated 29.07.2022 was received from the Estate Officer II, HSVP, Gurugram vide which he submitted that the complainant's applications for transfer permission dated 30.06.2022 and 04.07.2022 were both rejected within RTS timeline due to discrepancy in the measurement of the plot as per the revised demarcation, and for updation of the same in the PPM system by the concerned Junior Engineer. However, upon reapplication dated 18.07.2022 along with the submission of the affidavit that the applicant is not in a position to pay for & would not lay any claim on the extra land mentioned in the revised demarcation plan, transfer permission has been granted to him by HSVP on 26.07.2022 with a delay of 2 working days. The Commission observed that *prima facie*, it was incorrect on the part of HSVP to force the allottee to make payment of extra land due to revised demarcation when the possession had been given, construction raised and occupation certificate issued. In this regard, a clarification was sought from the Chief Administrator, HSVP vide letter dated 31.08.2022 regarding the applicable policy on this issue and his comments regarding whether the earlier two applications were correctly rejected.

2. Accordingly, a response was received from A.P. Singh Parmar, DA for the Chief Administrator, HSVP vide letter dated 08.09.2022 wherein the following points were stated as per the factual report received from the EO II, HSVP, Gurugram vide letter dated 07.09.2022:

i. Regarding the first application dated 30.06.2022, it has been submitted that the same was rejected with comments "please attach photograph of rear elevation of the building" on 04.07.2022 as the allottee had uploaded the photographs of front & back

yard of the house as per user manual but the rear elevation of the building was unclear.

- ii. Regarding the second application made by the applicant on the same day of rejection of the initial application i.e 04.07.2022, it had been submitted that it was rejected mainly on account of the revised demarcation plan of the concerned plots and due to the issue of recovery of interest of increased area. It had been stated that the JE visited the site physically on 05.07.2022 and found that there were no zoning violations and the building was constructed as per approved building plan. Thereafter, the transfer permission was processed and inadvertently forwarded to the Accountant's ID with the comments regarding discrepancy in area for which Occupation Certificate was issued and the area mentioned in the revised demarcation plan dated 27.05.2022, which was later rejected due to non-updation of revised area in PPM system.
- iii. It was again submitted that the allottee had submitted affidavits regarding his inability to bear any extra cost with an assurance of not claiming the extra land strip & thereafter the third application dated 18.07.2022 had been approved on 26.07.2022 by the EO II HSVP, Gurugram after verification of facts from the physical file.
- iv. Regarding the clarification sought in reference to the reason behind asking the allottee to pay for extra land when the possession was given, construction done & Occupation Certificate issued, it had been clarified that the approval of revised demarcation plan with memo no. 87627 dated 27.05.2022 was for all the Plot nos. 382 P to 392, Sector 47, Gurugram due to the unused strip of land measuring 3.35 m width at the rear side of the concerned plots which increased land size by approx. 30 sqm & made financial implications upon the properties concerned.

3. After careful perusal of the above-mentioned response, the Commission noted that since the Estate Office was aware of the complainant's plot falling amongst those on which the revised demarcation dated 27.05.2022 was applicable, the same should have been intimated to the complainant through a demand notice or any other way, as the information asymmetry in the case caused unnecessary rejections and delay upon his application for a notified service. The Commission also noted that HSVP had been causing undue harassment of allottees by unilaterally changing the plot sizes in many such cases without caring whether the plot is already constructed or not, changing the status like P or ordinary and when the citizen applies for services, he is shocked to know the unreasonable demand of HSVP regarding interest etc. Thus, clear policy guidelines in this regard should be spelt out by the CA, HSVP. Accordingly, a clarification upon the same was sought from the CA, HSVP vide letter dated 18.10.2022 as it is the CA, HSVP who has to issue the concerned guidelines. Further, a show cause notice vide letter dated 18.10.2022 was issued to Sh. Sanjeev Singla, HCS, erstwhile Estate Officer II, HSVP, Gurugram regarding the above mentioned rejections whereby he was directed to furnish report to the Commission by 07.11.2022. Meanwhile, a request for extension of time for submitting his response was received from the CA, HSVP vide email dated 11.11.2022 & 10 more days were provided to him until 23.11.2022 for submitting the policy related response. Further, since no response had been received from

Sh. Sanjeev Singla, HCS in the matter, a reminder and notice for a hearing before the Commission on 07.12.2022 at 11:30 a.m was issued to him vide letter dated 21.11.2022.

4. Thereafter, a response in the matter was received from the CA, HSVP vide letter dated 23.11.2022, the important points of which were as follows:

- i. It had been stated that the matter regarding unilateral changing of the plot sizes without caring whether the plot is already constructed or not was under examination of the Department and another report would be submitted in that regard separately. It had also been stated that the matter required deep examination so that further instructions/guidelines can be framed, hence additional time would be needed for the same.
- ii. Regarding the levy of additional cost upon updation to 'p', it had been stated that since the allottee enjoys the advantage accorded by the preferential status, therefore, he/she is liable to bear the cost as per HSVP policy. The complaint case of Smt Rajkumari, allottee of Plot no. 925 P, Sec 5, Gurugram had been cited as an example where preferential cost was charged & an enquiry was also being conducted on erring officials.
- iii. Regarding the case of charging interest, it has been submitted that the practice of charging compound interest upon the delayed payment of installments had been stopped by HSVP w.e.f Sept 2000.

However, the Commission noted that no clarification had been provided in the above-mentioned response regarding the case of charging simple interest from the allottee wherein delay was on the part of HSVP. Therefore, another extension for taking a decision in the matter and submitting a response to the Commission towards the issuance of clear policy guidelines in that regard was provided to the CA, HSVP until 31.01.2023.

5. In reference to the show cause notice and reminder issued to the erstwhile EO II, HSVP, Gurugram, a response was received from him vide letter dated 24.11.2022 wherein the following was stated:

- i. Regarding the rejection in the first two cases upon which clarification was sought earlier by the Commission, it had been submitted that both times, the rejection was done by the concerned JE at his own level, without any knowledge of the same to the Estate Officer. The same was also verified through the screenshots of the online portal.
- ii. Moreover, it had also been accepted that no intimation regarding the increased area of the plot was sent to the complainant.
- iii. It had been mentioned that the transfer application dated 18.07.2022 as processed on PPM, was approved by him on 26.07.2022, which was followed by processing of the application for Re-allotment letter dated 07.09.22 on 14.09.2022.

6. Following this, the hearing dated 07.12.2022 was attended by Sh. Sanjeev Singla, HCS, erstwhile Estate Officer II, HSVP, Gurugram wherein the responsibility for the delay and the undue rejection as per the revised demarcation plan was fixed by him upon the



concerned Junior Engineer, Sh. Vikas. It was stated by him that the decision regarding rejection was taken by Sh. Vikas at his own level without consulting him, the then Estate Officer in the matter. Thus, exercising the powers vested in it under Section 17(2) of the Haryana Right to Service Act, 2014, a show cause notice vide letter dated 15.01.2023 was issued by the Commission to Sh. Vikas Saini, Junior Engineer, Estate Office II, HSVP, Gurugram, whereby he was directed to furnish a reply to the Commission by 13.01.2023. After telephonic reminders from the Commission, a response vide email dated 24.01.2023 was received from Sh. Vikas Saini, JE regarding the two rejections. It was submitted that the first time while applying for permission to transfer the plot, photographs uploaded of the rear side of the house were not showing rear elevation of the constructed building. Hence, the same was rejected by him on 04.07.2022. Further, the second application was rejected by him on 06.07.2022 on the ground of the change in area as per the revised demarcation and for updating the PPM system w.r.t the same. It had been stated that since there are no clear instructions available regarding the steps to be taken by the allottee in response to any change in area of his/her plot, the application was rejected by him.

Further, in response to the extension provided by the Commission regarding the revision of policy guidelines/issuance of relevant instructions in the matter, a response had been received from the CA, HSVP vide letter dated 31.01.2023 wherein it was again stated that the matter was under active consideration of HSVP and the same would be placed before the Pradhikaran in the next meeting for a decision.

7. The Commission has carefully considered all the facts and circumstances of the matter. As mentioned in the preceding paragraphs, the Commission is of the opinion that it was incorrect on the part of HSVP to force the allottee in the present case to make the payments for the extra land due to revised demarcation when the possession had been given years ago, building is already constructed and occupation certificate was also issued to him. In this regard, the Commission has already communicated its observations to the Chief Administrator, HSVP vide letters dated 18.10.2022, 22.11.2022 and 05.01.2023 and hereby advises him to issue the policy guidelines for the field officials at the earliest under intimation to the Commission, after a decision has been made in that regard by the Pradhikaran. This will not only clear the confusion prevalent amongst the field officials towards the disposal of such cases but would also provide the much-needed relief to the concerned allottees.

Regarding the present case, the Commission observes that the rejections of the complainant's applications were made by the concerned Junior Engineer, Sh. Vikas at his own level. While the first rejection was seemingly valid, the second rejection on his part was unwarranted. As per his submission, even if he wasn't aware of the *modus operandi* while dealing with cases wherein the plot sizes were changed as per the revised demarcation in view of unavailable policy guidelines, it was his responsibility to seek orders of his superiors including the Estate Officer II, HSVP, Gurugram before arriving at a decision regarding the same in which he clearly failed and unduly rejected the complainant's second application for a notified service. Thus, finding him responsible for the undue rejection in the present case, while exercising the powers vested in it under Section 17(1)(h) of the HRTSA, 2014, the Commission hereby directs Sh. Vikas Saini, Junior Engineer, Estate Office II, HSVP,

Gurugram to pay a token compensation of Rs. 3,000/- (three thousand only) to the complainant. The Estate Officer II, HSVP, Gurugram should deduct this amount from his salary of February 2023, to be paid in March. The compensation should be transferred directly to the complainant's bank account under intimation to the Commission along with photocopies of the Challan/Bank Transaction ID at rtsc-hry@gov.in. Mr. Pankaj Jindal should provide his respective bank account details to Estate Officer II, HSVP, Gurugram in the following format through mail (Estate Officer II, HSVP, Gurugram may also direct concerned functionaries of his office to coordinate with the complainant for the same):

- Name of the Bank:
- Name of the account holder in the Bank:
- Bank Account number:
- Address of the Bank:
- IFSC Code:

At the same time, Sh. Sanjeev Singla, HCS, the erstwhile Estate Officer II, HSVP, Gurugram is advised to ensure effective supervision & monitoring of his office staff while dealing with such applications pertaining to notified services in the future.

With these orders, the complaint case is hereby disposed off.

February 24th, 2023



(T.C. Gupta)
Chief Commissioner