

GHS-79/Members/NCDRC/ 12 /2019

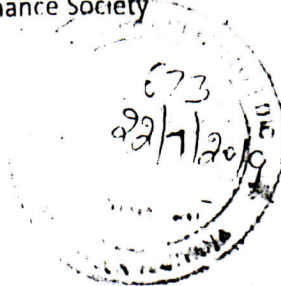
Date : 18 July 2019

From

Members of
Sandeep Vihar (AWHO) Welfare & Maintenance Society
GHS-79, Sector-20, Panchkula, Haryana.

To

The District Registrar
Firms & Societies, SCO -63-66,
Sector-2, Panchkula, Haryana



22/7/19
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Subject : **Non-Compliance of Prescribed procedure/laid down rules in the re-adjourned special general body meeting of Sandeep Vihar (AWHO), GHS-79, Sector-20, Panchkula, held on 30th June 2019.**

Dear Sir,

1. A re-adjourned special general body meeting (SGBM) of the Sandeep Vihar(AWHO) Welfare & Maintenance Society, GHS-79, Sector-20, Panchkula, Haryana (GHS-79) was held on 30th June 2019. In this meeting, the Management got some special resolutions passed in gross violation of the prescribed procedure/rules.
2. **Notice for holding of a SGBM.** A notice for holding of a SGBM was given on 3rd June 2019. Copy of the notice is attached as **Annexure 1**. It was intimated that a SGBM will be held on 16th June 2019 at 1030 AM in the community hall. In case quorum is incomplete then adjourned meetings will be held on 23rd June 2019 and in case the quorum is still not complete, a re-adjourned special general meeting will be held on 30th June 2019. Six agenda points were given in the notice at para 4(a) to (f).
 - (a) First four Agenda points at para 4(a) to (d) pertained to issues taken by Lt. Col G.S. Jeryal (Retd.).
 - (b) Fifth agenda point at para 4(e) pertained to the ongoing AWHO case in NCDRC, New Delhi. This point was to review the decision of the general body meeting dt 18th September 2018, regarding a negotiated settlement with the AWHO in the ongoing NCDRC case. It further mentioned that this was in view of likely time frame of the case to conclude and the fact that, AWHO has registered the MI room in its own name. It also mentioned that the issue to be decided by **physical voting**. This agenda point having financial implications of crores of rupees has been given out vaguely as neither any explanation, nor any clarification or any details were attached to enable the members to get acquainted with what is to be discussed and decided upon in the meeting. **The following necessary details ought to have been provided with the notice for prior information/awareness of the members:-**
 - (c) What were the reasons which required the decision of the general body of 18th September 2018 to be reviewed? :
 - i. Details of Proposed negotiated settlement from the AWHO in writing was not given/attached with the notice.
 - ii. Likely time frame of the case not explained.

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- iii. Documents of the AWHO registering the MI room on its name not given with the notice.
 - iv. Presuming that the AWHO had registered MI room in its own name, action taken by the management in approaching the NCDRC at New Delhi, since the case was sub-judice, was not given out.
 - v. Proposed resolution, if any, to be passed in the meeting was also not given.
 - vi. This agenda point as seen from above issues was vague, opaque and secretive. It gave no relevant details for the members to know before coming for the meeting and as to what exactly was required to be discussed and what was to be decided.
- (d) The sixth agenda point at para 4(f) of the notice was regarding change of name of the society.

i. Managing committee meeting – not held before GBM/SGBM

- a) Before a GBM or SGBM is held, it is necessary to hold a management committee meeting to discuss and dwell on and approve the Agenda points and issues to be placed before the GBM or the SGBM. This ought to be approved by the managing committee and the minutes of the managing committee meeting ought to be circulated/ disseminated to the members. Therefore, a notice specifying the time, date, venue and agenda for a GBM/SGBM cannot be given without approval of the managing committee meeting as stipulated in Society's Bye-laws No. 13.
- b) These six agenda points should have been discussed and approved in a Managing Committee Meeting. The requirement of taking up these agenda points in a GBM or in case of urgency of the points, the need for holding a special GBM should also have been discussed and approved in the management committee meeting. This mandatory procedure has not been followed in the present case and thus is a gross violation of Society's Bye-law No. 13 and also is not in keeping with the spirit of democratic and collective governance by the Managing Committee. Then the question arises as to:
 - i) Who had decided these agenda points to be taken up during the SGBM ?
 - ii) Who has decided to hold a SGBM?
 - iii) Has the Management committee been bypassed, or it has been rendered dysfunctional?
 - iv) Are Col R S Rathee (Retd), President of the Management Committee and Lt Col Rohit Mittal (Retd) General Secretary taking arbitrary & dictatorial decisions in sole consultation with Brigadier D K Mohan (Retd), who is not even a member of the management committee?

Conduct of the re-adjourned SGBM on 30th June 2019

4. Before commencement of the SGBM:

- a) Members/ participants were asked to fill up their details/presence in a register kept at the entrance of the meeting hall.
- b) No check of identity of the owner of the flat was carried out in respect of members/ participants at the entry door.
- c) Members/participants were given a handout of agenda points (attached as Annexure-2). The agenda points listed were from serial No. 1 to 6, akin to the points listed from para 4 (a) to (f) of the notice dated 3rd June 2019 (Annexure 1).

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- d) Agenda point No, 5 was regarding the AWHO ongoing case at NCDRC, New Delhi. No details of this case were attached. Draft of any Resolution, required to be discussed and passed in the meeting, was not given. The whole matter again was opaque and secretive as explained at para 2 (b) above.

5. Commencement of the SGBM.

- a) No announcement of the quorum being complete was made by the Chairman before the start of the meeting.
- b) Some members left the meeting midway.
- c) Some members were seen making entry in the attendance register and going away from the entry door itself.

6. Conduct of the SGBM

- a) The meeting was chaired by Col R S Rathee (Retd) who is the current president of the management committee.
- b) The Chairman spoke on agenda points 1 to 4 for major part of the meeting.
- c) Towards the later part of the meeting, he spoke on the agenda point number 5, regarding the ongoing AWHO case at NCDRC at New Delhi. After a continuous monologue, the President came on to voting without reading the resolution to be passed.
- d) At this point of time, some members got up to give their views, but the chairman did not want to hear them and some members from the front right side of the venue shouted them down and shouted that voting be done.
- e) With much difficulty only two or three members were allowed to speak for about a minute or so, that too with the chairman interrupting them and asking them to hurry up and some members shouting in between and in this process what these members said about the case was not fully comprehensible. The chairman then asked to Brig Mohan (Retd) to speak in his support. This is generally the norm in all the meetings wherein it is only these two who speak and differing views especially by the members of the team who prepared and filed the case are discouraged and shouted down by some apparently pre-designated members.
- f) The Chairman then went on for voting. At this point of time, Mr S C Pathania appealed that the members present be counted but this was not agreed to by the Chairman and then the Chairman hurriedly asked the members 'for the resolution to stand up' without either flashing the resolution on a slide or actually reading out the resolution. Then the President asked the members 'again to stand' and hurriedly and arbitrarily/undemocratically declared "OK, 100%, Gentlemen thank you" and the meeting was presumably closed. It was not clear as some members were standing and some were moving out. There was no physical counting of votes. At this point of time, Mr S C Pathania (ex-General Secretary who has sound knowledge of HRRS Act & Rules 2012) pointed out while reading out the relevant provisions of the HRRS Act 2012 that this is not correct and even the quorum is not complete but the mike was personally snatched from him by the President and ex-GS was shouted down by the President.

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- g) The chairman then asked the members to settle down as there was one more agenda point left.
- h) Thereafter the 6th agenda point regarding the change of name of the society was passed and meeting was declared as closed.

Minutes of the SGBM

7. Minutes of of SGBM of 30th Jun 2019 issued/disseminated by the Management on 04th July 2019 are attached at **Annexure 3**.
8. Attendance at para 1 of the minutes has been shown as 104 and quorum of the meeting was shown as more that 15% of the members i.e. 83 members.
9. Minutes of Agenda point No. 5 (NCDRC case) have been given from Paragraphs 15 to 48 viz.:-
- a) At para 15 of the minutes, resolution during SGBM held on 2nd September 2018 has been given out. Even after almost nine months of passing of this resolution the **Management has not produced any Written Draft Proposal from the AWHO to the General Body.**
- b) At para 47 of the minutes , the resolution presumably adopted during this meetings has been given, whereas, this resolution was neither flashed on slide not read out during the meeting/deliberations and it is for the first time that this resolution is being seen in the minutes. From the above, the following emerge:-
- i) Its draft was not approved in any management committee meeting.
- ii) It was not given out in the notice for SGBM dated 3rd June 2019 (**Annexure 1**)
- iii) It was not given out in the hand out (**Annexure 2**) given to members at the entrance of the meeting hall on 30th June 2019.
- iv) It was neither flashed on a slide nor read out by the Chairman during the meeting on 30th June 2019.

Therefore it is obvious that this resolution has been drafted/coined after the meeting i.e. , later in the society office and then given out in the minutes which is highly irregular.

- c) This special resolution has been surreptitiously done/incorporated in gross violation of transparency and democratic procedure, and is also not in the interest of the Society and its members.
- d) Keeping in view the huge financial implications/interest of each member as stake holder, a written consent/authorization from each member is considered sine quo non for any mutual agreement when the matter is already in the Court. **Apart from this, a negotiated proposal from AWHO has to be produced in Writing and must be discussed, debated and approved by the General Body.**

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e) This resolution is also not legally tenable because, the Management is surreptitiously trying to usurp the powers of the general body as laid down at para 7(ii) of Annexure 3 to Rule No. 15 of Haryana Registration and Regulation of Societies Rules 2012 and may therefore be struck down and declared null and void.

10. **Quorum of the meetings.** This SGBM presumably passed two special resolutions namely:

a) The agenda point number 5 regarding AWHO case at NCDRC at New Delhi. This is a case wherein a large amount of financial dues and compensation to members from AWHO is involved due to unfair trade practices by the AWHO. Therefore, a special resolution of this nature must have quorum of 25% of the total members which has not been adhered to during this Special GBM. in gross violation of proviso 31 (3), 37(4) of HRRS Act 2012 read with para 6(v) of Annexure 3 to Rule No. 15 of Haryana Registration and Regulation of Societies Rules 2012.

b) The agenda point number 6 regarding the change of name of our society is again a special resolution and required a quorum of 25% of the total members in the SGBM which was not adhered to and hence is in the gross violation of proviso 31 (3), 37(4) of HRRS Act 2012 read with para 6(v) of Annexure 3 to Rule No, 15 of Haryana Registration and Regulation of Societies Rules 2012.

c) Therefore the mandatory requirement of the quorum for passing special resolutions in the SGBM held on 30th June 2019 has not been adhered to which tantamount to the violation of relevant provisions of the HRRS 2012 as stipulated in sub-paras (a) and (b) above.

11. In view of the issues brought out as heretofore, the SGBM held on 30th June 2019 is a fit case to be declared as null and void.

12. From the facts enumerated above, it can be seen that the SGBM was held in a dictatorial/undemocratic manner and various provisions of HRRS 2012 were violated. Therefore, the following is recommended:

- a) The SGBM held on 30th June 2019 and its resolutions be declared as null and void.
- b) Keeping in view the huge financial implications and the overall interest of each member of our Society, meeting on the subject may be re-convened only after the receipt of written offer from the AWHO.
- c) The team of officers who prepared and filed the case at NCDRC in June 2015 be allowed to explain the case to the general Body so that the members are not kept in the dark.
- d) Since the matter is already in the Court, wherein interest of each allottee is involved, a written consent of members be obtained for any compromise or withdrawal of any part of the claim.
- e) If the meeting is re-convened, the presence of a representative of Registrar as well as Videography of the meeting may be ensured.

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13. The above case at NCDRC New Delhi was filed by the previous Management on 22nd June 2015 and is at final stage of argument now. Though till date there is no written offer from AWHO regarding mutual agreement. But on taking over, the present management has held a number of GBM to compromise/withdraw most of the claims fully knowing that the case has huge financial implication wherein every allottee/member is a stakeholder.

14. In view of the position explained above, the request made at paragraph 12 above be considered in the interest of natural justice.

Yours faithfully,

Members of GHS-79, Sector-20, Panchkula
(Signatures are appended)


Copy to :-


The State Registrar of Societies
Deptt of Industries & Commerce, Haryana,
39 Bays Building
Sector-17, Chandigarh.


for information and
necessary action
please


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1. 
Col SK Chauhan
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(EX President)


2. 
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(ex-President)

3. 
Col Subash Chandan Joshi
E14/203, GHS-79
9316497224 ex Vice President

4. 
Col Kulwant Singh (Retd)
ex-Treasurer, 9463599032
E-13/704

5. 
S.C. Patawalia ex-Gen Secy
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E 5/301, mob 9876408952
Col Harim Singh
8. 
Col Rajeev Singh
E-13/401 Mob 9815706561

7. 
Hony Lt. Rishi
E-2/102, 9530609366

10. 
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9)

SMT

Ms [redacted]

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12.

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Yashpal Mehta / Seena Mehta
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(Mrs) [redacted]

15 Major Subodh Chandra Sharma (Retd)
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16. Col Ravinder Singh
E8/301 - 9816736225
Ravinder

17. COL VR Singh [Signature]
D4/701 M-9478761319

18. Col Ajay Singh Kumar [Signature]
E-14/604 of

19. Mrs [redacted]

26 - *[Signature]*
Col vs Rampal
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