

SANDEEP VIHAR (AWHO) WELFARE & MAINTENANCE SOCIETY,
GHS-79, SECTOR-20, PANCHKULA

READJOURNED SPECIAL GENERAL MEETING HELD ON 30 JUN 2019

Attendance

1. Total of 104 members attended the Readjourned Special General Meeting. The Quorum for the Readjourned Meeting is 15 % of members, ie. 83 members.

Agenda Points No. 1 to 4

2. The President reminded that, the first four points pertaining to letters written by a member to various authorities and their consequences for the Society were clubbed together.

3. During the GBMs of 14 Oct 2018 and 18 Mar 2019, the member raised the following points: -

- (a) Activation of Tennis Court instead of Basket Ball Ground.
- (b) Activation of Swimming Pool.
- (c) Establishment of Club
- (d) State of Lifts
- (e) State of Fire Fighting System.



4. Each issue was answered in detail and the action approved by the House :-

(a) Tennis Court. It was explained that the Tennis Court which had been installed two years earlier, served only a limited number of children, including those from outside Societies. The remaining children were denied any place to play. The Basket Ball Ground provides a space for all children's activity.

(b) Swimming Pool. It was explained that the Swimming Pool had developed major leaks and the Filtration Plant was out of order. As a result, the consumption of water was much beyond the availability. Filling of Swimming Pool will lead to water shortage. This fact was borne out during the current summer, when HUDA water supply was very low or even zero on certain days. Most Societies had to get water trailers. We could manage within our other resources.

(c) Establishment of Club. There has never been a Club in the Society. A Board was convened during Lt Col Jeryal's Presidency which found it financially unviable. There was a Restaurant for some time. The last two vendors deserted leaving behind their equipment because they could not pay their dues. Another paid an advance but could not start it and did not return to collect the advance.

(d) State of Lifts. The genesis of the problem arising from the initial AMCs by the first President was outlined. Actions taken to ensure

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serviceability of Lifts including installation of Automatic Rescue Devices was explained. The fact that 24 Lifts had had their entire electronic mechanism changed and more would be undertaken, as required during the current year was also explained.

(e) State of Fire Fighting Equipment.

(i) The issue was discussed in fullest detail. It was explained that, the Fire Fighting System had not been fully completed by AWHO and had neither been taken over from AWHO, nor been tested and repaired during the previous years. However, this management was committed to ensuring serviceability of the system and has been working progressively on this.

(ii) Last year the hand held fire extinguishers had been refilled and the Ground Level Fire Fighting System revived. During the current year, the roof top system is being revived and would be completed before the end of the year. This was a very major task because all roof top pumps were rusted and non-functional, the 45HP generator in the Pump House was not working. As a matter of fact, it did not even have its fuel tank and two batteries. Maximum brass fitment items all over the Fire Fighting System were stolen/cut off from the fire hoses. Thrifty Block does not have a roof top pump at all. Seven Blocks are without Non-Return Valves. Starter Motors on all Blocks were defunct.

5. However, after the detailed discussion in the GBMs on 14 Oct 2018 and in particular on 18 Mar 2019, wherein, the same issues were explained in detail to the member who raised these points, the same member wrote a letter to District Registrar HUDA, GOC-in-C Western Command and AWHO, raising these very same issues and blaming the current management.

6. When there was no response from any of these authorities, he repeated the allegations in a letter dated 19 April 2019 to the District Registrar and the State Registrar, where also no cognisance was taken.

7. It must be noted that, HQ Western Command and AWHO have no locus standi in the functioning of the Society. Similarly, the powers of the District Registrar are limited to membership, elections, Bye-laws and audit. He has no say in the functioning of the Society.

8. The decisions of the General Body are supreme and cannot be challenged if they are not contrary to any law of the land. In the end, all that the letters have achieved, has been the tarnishing of the image of the Society.

9. When there was no response from these agencies, the member wrote a letter on 16 May 2019 to the local Fire Officer of Panchkula with copy to the State Fire Authorities. The Fire Authorities have statutory powers including imposing hefty fines. Coming just after the fire tragedy in Surat, the fire authorities were galvanized into action and thus, paid a surprise visit to the Society. They were demonstrated the ground level firefighting system and shown the progress of the roof top system.

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10. Consequent to the visit, the fire authorities issued an advisory requiring completion of the system within one week. They have been informed that this cannot be done and the work is ongoing.

11. As a result of this letter, the fire authorities checked only two Societies-our Sandeep Vihar and Sector 27 Vikram Vihar, and, promptly published the visit report and the photos in the local newspapers. Thereby, not only did this officer discredit our society, but, also maligned our name and respect in the entire tricity. No other Society was checked in Sector 20.

12. One consequence of the visit is that we need to spend at least Rs 4.00 lakhs more on the system. Repairs which we could have done without replacement of missing NRVs etc, have now to be implemented. Additional requirements of static fire stations and trolley mounted CO2 Cylinders have been mandated. Most importantly, the permanent requirement of having a fire warden and trained staff have to be ensured.

13. The President enquired whether the action of the member in raising the issue to the fire authorities was correct, well knowing the state of the system and the continuing efforts to revive the system at the earliest?

14. However, since the member was not present during the meeting, in the interests of natural justice, the President proposed to carry forward these points to the forthcoming AGM where he would have an opportunity to present his reasons and explain his actions.

Agenda Pont No. 5 (NCDRC Case)

15. The President reminded that during the SGBM held on 02 Sep 2018, the House had resolved as follows:-

“Negotiations with AWHO to continue. In this event, NCDRC be requested for another date for hearing while negotiations could be undertaken, without jeopardy to the future of the case in the event of failure to arrive at a mutual settlement”. It was also stipulated that, the final approval for any mutual settlement would be placed before the House”.

16. The issue was accordingly being placed before the House once again.

17. The President briefly recapitulated the issues involved in the case for benefit of members who were not conversant with them.

AWHO Office Building

18. In the Technical Brochure issued to allottees an MI Room of approx. 12 X 15 sq ft was planned as an extension of the Shopping Complex with a small park adjacent.

19. AWHO modified the plans at the construction stage and used the space meant for the Park to construct an office building. In doing so, the MI Room, which was basically an extension of the Shopping Complex, (where the Stationery Shop



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is located), was deleted because its construction left no Parking Space between the Shopping Complex and the Office.

20. Our contention is that the building was constructed without approval of members and hence should be handed over to the Society. AWHO claims that it has paid for the land and building cost and has, in fact, deposited the book value into the project accounts in 2016.

Corpus Fund

21. At the time of handing over of Flats an amount of Rs 20,000/- was taken from each allottee towards a Corpus Fund, totalling to Rs 1.11 crores, which was reimbursed in varying stages till Mar 2014. Records indicate that a total amount of Rs 1.20 crores was refunded by AWHO. However, this is an aspect where the figures can be reconciled.

2nd LEC Issues

22. In 2010, AWHO recovered the 2nd LEC from members and deposited it with HUDA. In Feb 2012 an amount of Rs 2.12 crores was refunded by HUDA. The same was returned to members in Aug 2012.

23. In Oct 2012 an amount of Rs 68.00 lakhs was refunded as interest for the period that the principal amount was retained by HUDA. Out of this an amount, Rs 6.80 lakhs was deducted as TDS. This amount was retained by AWHO on the grounds that, some members had not paid the 2nd LEC and hence, it was compensating the loss through this.

24. Our claims in this regard are as follows:-

- (a) Refund of Interest refunded by HUDA duly updated.
- (b) Refund of TDS deducted by HUDA.
- (c) Payment of interest for the period of six months that the principal amount had been held by AWHO.

Compensation for Delay in Handing Over

25. The tentative date for handing over was Nov 2005. However, the handing over actually started in June 2008. There was thus a delay of over two and a half years. We have requested for compensation for delay as happened the case of a few officers of Vikram Vihar.

Miscellaneous Issues

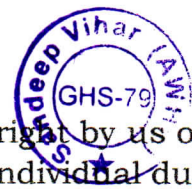
26. Miscellaneous issues raised are as under :-

- (a) Rectify/Compensate for poor quality of construction.
- (b) Amount from sale of Parking Slots be reimbursed.
- (c) Compensate for loss of rebate benefit due to delay in construction.

27. After the last GBM, AWHO had withdrawn the offer made and instead suggested that, AWHO hand over the building free of cost and we forego all the



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amounts due for payments to individuals. This was rejected outright by us on the grounds that the General Body could not take a decision on all individual dues.

28. It is understood that, AWHO has subsequently registered the Building in its own name. It has got the building professionally valued at Rs 2.50 crores and is receiving offers for sale in excess of that amount.

29. Last month, after intervention by senior members of the Society, a meeting was held with Army Commander, Western Command. After that meeting, AWHO has in principle restored the offer discussed last year.

What the Future Holds

30. The way the case is unfolding, it is obvious that it will drag on for some years in the NCDRC. It is now four years old. The last meaningful hearing was held two years back in Jul 2017. After that, both sides have been asking for dates. On two occasions our own lawyer has not turned up. The next date is in May 2020. Who knows when the case will reach finality in the NCDRC?

31. Thereafter, it will go for appeal in Supreme Court for another few years. Even at that stage, there is no certainty of the extent of relief which we will get. AWHO as an institution has the capacity for long drawn out legal battles, which we don't.

32. As a result of this delay: -

- (a) AWHO may sell the building leading to consequential problems.
- (b) Even if it does not do so, the Society is losing out on revenue of at least Rs 6.00 lakhs per annum for the period that it does not have its use.
- (c) Most importantly, members who pass away, or sell their property will be deprived of their dues.

Issues for Consideration

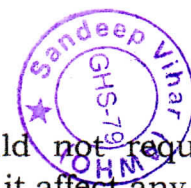
33. (a) While there may have been some unfairness on the part of AWHO, should we continue to fight on principles or look after our larger interests. Many of us will not be around when the case finally comes to a conclusion. Many more will have sold their properties. Any benefits which accrue will not go to those who should have enjoyed them.

(b) A one time payment of around Rs 40.00 lakhs (50%) for the AWHO Office building, will be recouped through revenue generated within lesser time than the court case will take to conclude.

(c) If we do not get relief, then we would have lost out on not only the MI Room but also the individual refunds due.

Suggested Way Forward

34. The GBM accord approval for acceptance of the transfer of MI Room at 50 % of book value with simultaneous refund of 2nd LEC dues duly updated and mutual reconciliation of Corpus Fund, while agreeing to drop the other issues.



35. It was reiterated that, any payment to AWHO would not require any contribution from or depletion of the Corpus Fund. Nor would it affect any refunds due from AWHO to members. The payments would be made out of the Development Fund contributed to by all new members.

36. Lt Col A C Sharma opined that his long experience dictated that a mutual settlement was the best option because litigation invariably dragged on for years and the outcome was never certain.

37. Maj Gen M P Singh (Retd) opined that, if AWHO had got the land use for the area of the MI Room/AWHO Building done by HUDA after paying the compounding fees, then the registration was legally valid. He agreed that, a mutual settlement would be in the interests of the Society.

38. At this stage members demanded that the issue be put to vote. However, Rfn S C Pathania (Retd) expressed a desire to speak.

39. Rfn S C Pathania (Retd) raised a technical objection to the proceedings of the day on the grounds that being a Readjourned Special Meeting the quorum should be 25 % and not 15%. It was clarified that, the meeting had been designated as a Special Meeting under the provisions of Para 13 (i) of the Society Bye Laws, in view of the shorter warning period for the meeting. For such a meeting only 15% quorum was mandatory, which had been well exceeded. The quorum of 25% was required for passage of a Special Resolution. In the present instance a normal resolution was being passed and not a special resolution, since it sought to amend a normal resolution dated 22 Feb 2015 on the basis of which, the case had been initiated. The confusion rising out of the word "Special" needed to be interpreted accordingly.

40. Rfn S C Pathania ,(Retd) and Lt Col Kulwant Singh, (Retd) expressed the view that the case before the NCDRC was strong and hence we should follow it to conclusion.

41. Brig D K Mohan (Retd) opined that, most members who felt the case was very strong had never read the case or the replies by AWHO. Our case was only as strong as the evidence that we had placed on record, and, the prayers that we had made before the court.

42. He stated that on the vital issue of the AWHO Office Building, we had prayed for return of the MI Room Building. AWHO had simply stated that there was no MI Room Building and hence nothing to return. We had omitted to consider that the Technical Brochure had promised to provide a Room in the Shopping Complex for this purpose. Later on they re-appropriated (and duly regularised) the place meant for a park, to construct an office building. They claimed and had placed on record that they had deposited the cost of land and the building into the project fund in 2016. We had not placed any evidence to the contrary. He reminded that, a few days back a member of Parliament had famously said on the floor of the house, "that a lie repeated often enough becomes the truth". This is exactly what had happened with regard to the issue of the AWHO Building. We had called it MI Room Building for so long that we convinced ourselves that there had been a planned MI Room Building which was changed to the AWHO Office. Under these

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circumstances, there was no possibility of getting the building at all, leave alone for free.

43. On the issue of poor quality of construction, he pointed out that, we had attached no documentary evidence. Photographs taken six years after the completion of liability period of fallen grit wash, damaged roads and missing cowl covers were not likely to be accepted by anyone.

44. Even on the issue of refund of interest on 2nd LEC, we had created a dichotomous situation in the case. The prayer made was for the refund of the dues to the Society and not to individuals. In 2016, AWHO had correctly offered to refund the dues directly to individuals, but the offer was kept under wraps. Subsequently, AWHO withdrew the offer, pending the outcome of the case. They are now in position to very piously claim before the court that they had offered to make payment to individuals, but the same was not accepted.

45. On the issue of delay in handing over, we were falling prey to a mirage. Some individual members of Vikram Vihar had gotten compensation for delay which was over five years. Many others had followed suit, but there has been no relief to anyone else till date. In our case the delay was much lesser and AWHO had appended reasons for the same. There was little possibility of any serious outcome on this count.

46. The remaining issues were without merit and had really been added to pad up the case and increase the monetary value to make the case eligible for placing directly before the NCDRC.

47. The following Resolution was thereafter placed before the House:-

“The House authorises the Management to enter into a mutual agreement with AWHO, which leads to refund of interest on 2nd LEC duly updated till date, the reconciliation of Corpus Fund and payment of any balance with interest updated till date, the refund of TDS deducted on 2nd LEC if refunded by Income Tax Authorities and transfer of the MI Room/AWHO Office Building to the Society with maximum payment of 50% of Book Value. The House authorises the management to renounce the remaining claims of the Society as a measure of give and take, and, extend the assurance that the issues will not be revived again”.

48. The Resolution was unanimously approved.



Agenda Point No. 6 (Change of Name of the Society)

49. The President explained that the name of Society, as registered, is “Sandeep Vihar (AWHO) Welfare and Maint Society (GHS-79)”. However, the name in various documents over a period of time like PAN card and Bank Accounts is different. Somewhere the Maintenance is abbreviated to Maint. At other places the name has a different variation with (GHS-79) included or excluded. This is now raising problems because IT and GST authorities are not refunding our dues, due to the variations. Furthermore, the long name results in spelling errors when members write cheques and the name variation results in rejection of cheques. He proposed to simplify the name of the Society to “SANDEEP VIHAR (AWHO) SOCIETY”.

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50. The following Resolution was thereafter placed before the House:-

“The House approves the change of name of the Society from the existing name to “SANDEEP VIHAR (AWHO) SOCIETY”.

51. The proposal to rename the society was unanimously approved.

Date :-

03 Jul 2019



Rohit Mittal
(Lt Col Rohit Mittal)
General Secretary