

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

MINUTES OF THE MANAGEMENT COMMITTEE MEETING : 14 AUG
2021

1. A meeting of the Management Committee was held on 14 Aug 2021. Six members were present.

Agenda

2. Agenda :-
- (a) Annual Audit Report
 - (b) Agenda for AGM

Proceedings

3. The President observed that the managing committee had completed one year in office. It had been a year spent in successfully fighting Covid within the Society and in fighting court cases, foisted upon the management, outside the society.

Annual Audit Report by Chartered Accountant.

4. The Annual Audit Report for FY 2020-2021 was considered. The General Secretary made the following observations: -

- (a) The Balance Sheet had been simplified to make it easily understandable by merging four entries related to Third LEC.
 - (b) The General Development Fund from Tenants, which was a nonrefundable fund was being reflected as such, from 01 April 2020, as an audit requirement.
 - (c) The balance of the Corpus Fund was the same as last year. However, the expenditure of Rs 30.00 lakhs on Solar Power Project, approved by the GBM of 02 Feb 2020 had not been reduced from the Corpus Fund. Thus, in effect there was an increase of Rs 30.00 lakhs in the Corpus Fund.
 - (d) The cash balances had also increased by Rs 10.71 lakhs during the current year.
5. He looked forward to seeking the response of the member who, in an email to the environment, had accused the management of "having sunk the finances of the society to the lowest ebb".
6. The following observations of the Auditors for the financial year were also discussed.

(a) The Society Does Not Maintain a Fixed Asset Register. The General Secretary observed that this was a point being repeated annually. Lt Col Kulwant Singh (Retd) informed that a Register of Assets had been created, but valuation of the initial assets could not be done since AWHO had not provide the costing of the Fixed Assets. Col H S Ahuja (Retd) offered to take on the responsibility to find out a via media to the issue, after interacting with the Chartered Accountant and thereafter preparing the Fixed Asset Register to suit the audit requirement.

(b) Amount of Rs 3,56,722/- Reflected as Recoverable From AWHO. The General Secretary pointed out that this amount was also being reflected as recoverable from AWHO for many years. It was the residual amount left, out of the claims made by us regarding the initial corpus collection and society maintenance charges, after adjusting the remittances made by AWHO. However, it was a part of the ongoing NCDRC case and hence the continuation of the amount on the books had been observed by the Chattered Accountants. It was proposed to delete this entry from the account books.

7. Lt Col Kulwant Singh (Retd) observed that monthly Balance Sheet was not being drawn up. The General Secretary pointed out that the monthly income and expenditure statement was being posted on the Website and monthly Reconciliation was being done in the Society Accounts Ledger. However, Balance Sheet was an annual exercise undertaken by the Chartered Accountants.

Proposal For Expansion of the Solar Power Project

8. The General Secretary informed that the project of 70 KW, set up at a capital cost of Rs 30.00 lakhs had already saved us Rs 6.30 lakhs in 11 months, through the compensation for the electricity produced and fed into the grid, and the stipulated subsidy. Our electricity bill for the last financial year had been reduced to only Rs 23 lakhs – that is the lowest since 2012-2013 from when the records are available.

9. These figures indicated that the society was likely to recover the initial investment in around four years, against the earlier planning of five to six years. With a project life of 25 years, there would be considerable savings effected thereafter.

10. The General Secretary recollected that the progressive decision to setup the Solar Power Project during the GBM of 02 Feb 2020 had been sought to be cancelled through the District Registrar in a petition signed by Col S K Chauhan (Retd), Rfn S C Pathania (Retd), Lt Col Kulwant Singh (Retd), Col Rajeev Singh (Retd), Col S C Joshi (Retd), Col G S Jeryal (Retd) and Mr Pushpinder Kalia . The reasons given were so flimsy that even the District Registrar could not find grounds to uphold it. That is why we have the project today.

11. Based on the successful experience of the project, M/s Hartek Solar had been asked to explore its expansion by using some area of the Water Tank and the roof of the No. 3 Power Station.

12. The proposal for the same has been received for a project of 30 KW at cost of Rs 12.60 lakhs which is at the same earlier rate of Rs 42,000/- per KW.

13. On a query by Col Rajeev Singh (Retd) about the composition of the Board of Officers to be constituted for technical evaluation of the proposal, it was confirmed that Col Sudershan Bhardwaj (Retd) would be requested to provide his expertise, by being part of the same.

Resignation By Members

14. It was informed that Col Sudershan Bhardwaj (Retd) and Col K N Jetly (Retd) had resigned from the Managing Committee due to personal/health reasons.

15. The President pointed out that para 19 (ii) of the Society Bye Laws stipulated that "a member of the Managing Committee shall cease to be its member if he/she remains absent without valid reason, during three consecutive meetings of the Committee". He observed that Col N D Mehta (Retd), Vice President had not attended six consecutive meetings of the managing committee, covering four quarters, and hence had become ineligible to continue as a member of the managing committee.

16. It was unanimously decided to seek the response of Col N D Mehta (Retd) on the same and to place it before the House during the forthcoming AGM for a decision.

Actions Against Members Not Complying with Society Rules

17. It was informed that some members were not complying with the society rules regarding common areas and parking. Specific instances pertaining to complete encroachment of the passage adjacent to allotted parking space, construction of awning over the stilt parking slot and unauthorised blocking of paid parking were discussed.

18. It was decided to give the concerned members a final chance to comply with the rules, failing which the issue to be placed before the AGM for decision by the General Body on the action to be taken.

Speed Breakers

19. The President informed that some of Speed Brakers had started disintegrating. It was proposed to replace these with prefabricated speed breakers like the ones at Gate No.1, which had withstood the test of time.

Update on Legal Issues

Case by Col S K Chauhan (Retd) before CIC Haryana Under RTI Act

20. After the elections last year, Col S K Chauhan (Retd) had submitted a request for information under the RTI Act, on the basis of a recent amendment to the HRRS Act, 2012. This Act limits the scope of information which can be sought, to the information which the society routinely submits to the District Registrar. Furthermore, the Society does not have the resources to collect and provide digital information, which was also requested

21. The request was processed according to the Act and turned down by the SPIO. An appeal to the FAA upheld the decision of the SPIO. The aim of denial of the information to Col S K Chauhan (Retd) was to clarify the legal limits of the society's liabilities in this regard, in order to avoid establishment of a norm for sending frivolous requests for information by appending a Postal Order for Rs 10/.

22. The CIC Haryana conducted hearing on 30 July 2021 in which he has ruled that the Society is not a public authority under the RTI Act. The only information which can be provided is that which has been submitted to the Registrar in the normal course, or which the Registrar is permitted to seek.

Appeal by Col S K Chauhan Against the Rejection of His Petition Challenging the Results of the Last Election.

23. The General Secretary recalled that Col S K Chauhan (Retd) and 16 others had submitted a petition to the District Registrar seeking the setting aside of the elections held last year on vague and baseless grounds. The same set of signatories, who had sought cancellation of the progressive decisions taken during the GBMs of 30 Jun 2019 and 02 Feb 2020, were party to this petition as well. A pattern was thus established from which members could draw their own conclusions.

24. The petition was discussed during the GBM on 21 Feb 2021 and none of the petitioners was present to explain any of the issues or to specify who was being accused of malpractices, in spite of having been individually requested to attend the GBM and place their point before the General Body. The GBM passed a resolution to the effect that the elections had been flawlessly conducted and appreciated the actions of the Returning officers.

25. This petition was heard by the State Registrar on 09 Mar 2021. None of the points raised in the petition were touched upon by the advocate for Col S K Chauhan (Retd), whether during the hearing before State Registrar or the Appeal submitted subsequently before the Registrar General. The petition was dismissed by the State Registrar on the grounds that its submission did not comply with the provisions of the HRRS Act, 2012. The two provisions are: -

(a) That at least 25 % of the General Body, which comes to 139 members, should have signed it.

(b) That the District Registrar forwards it under "Reference" to the State Registrar after ascertaining the merits of the case.

26. In the instant case neither of these two conditions were met. Neither was the petitions signed by 25% of the members, nor was the same examined by the District Registrar for merit, by hearing the Respondents and the Returning Officers. As a matter of fact, the District Registrar was on leave at the time, due to being affected by Covid.

27. Ironically, the Respondents were conveniently named as the President and General Secretary and not the Returning Officers who had conducted the elections. This was done precisely, so that the actual facts did not emerge at any hearing, in the absence of the Returning Officers.

28. Consequent to the rejection of the petition by the State Registrar, Col S K Chauhan (Retd) appealed against the decision to the Registrar General of Societies, Haryana. This hearing was conducted on 03 Aug 2021. The issue of the role of the District Registrar in blindly forwarding the application was highlighted. The Registrar General directed the District Registrar to place on record his actions in processing the case before the next hearing on 28 Sep 2021.

29. It is ironic that Col S K Chauhan (Retd) is dragging the society (through the President and General Secretary) before various courts. But he has refused to come before the ultimate court of the society – that is the General Body. As matter of fact, he has not attended the last four GBMs of the Society. The last meeting attended was over two years back.

30. The General Secretary felt that it was demeaning to wait in corridors for the hearing and then to be given moral lectures about how army officers should resolve these issues within the society. However, this too, was being tolerated in the interests of the society.

31. Col S K Chauhan (Retd) and all the other petitioners will be requested once again to attend the forthcoming GBM where they can convey their grouses regarding the elections to the members and clarify any doubt which the members might have, in the presence of the Returning Officers and Independent Member. Opportunity will be given to discuss each and every point which the petitioners have submitted.

Case by Mr Pushpinder Kalia Against the Society

32. Mr Pushpinder Kalia has lodged a case against the Society in the High Court, seeking refund of the contribution made by him towards the General Development Fund while purchasing his flat.

33. The next hearing scheduled on 10 Sep 2021. Progress of the same will be intimated during the AGM.

NCDRC Case Against AWHO

33. (a) It was recalled that during the GBM of 30 June 2019, a very favourable proposal from AWHO, for an out of court settlement, was placed before the General Body, and it was unanimously decided to continue with negotiations with AWHO, to amicably resolve the issue.

(b) However, Col S K Chauhan (Retd), Rfn S C Pathania (Retd), Lt Col Kulwant Singh (Retd), Col Rajeev Singh (Retd), Col S C Joshi (Retd), Col G S Jeryal (Retd), Mr Pushpinder Kalia and ten others represented against the proceedings of the GBM and got it set aside. After that, AWHO withdrew its offer.

(c) Since those who had got the decision of the General Body set aside, expressed great faith in the case against AWHO, its handling was handed over to a team of Col S K Chauhan (Retd), Rfn S C Pathania (Retd), Lt Col Kulwant Singh (Retd). In any case, there is only the Final Hearing left to be conducted.

(d) The final arguments were to be held on 17 June 2021. The daily record of the hearing states that the Counsel for AWHO stated that they would like to attempt an out of court settlement with AWHO. This was accepted by our team

(e) The question for the legal team to answer before the General Body is that, when they had got its original decision to go in for negotiating an out of court settlement nullified through the District Registrar, then why have they now accepted the AWHO proposal?

(f) If they had so much faith in the legal case, then why did they not insist on a decision on merits during the Final Hearing? The case would have concluded that very day.

(g) There have been no formal communication from AWHO, on the issue, during the two and a half months which have transpired since the hearing. It seems to have been a ploy to further delay the proceedings.

(h) The next hearing is now scheduled for 18 Oct 2021.

Writ Petition by Society Against HUDA Regarding Third Land Enhancement.

34. It will be recalled that the Third LEC demand was issued on 14/01/2016 by recalculating the Second Enhancement, after increasing the Common Areas exponentially. Subsequently, on 19 Jan 2018, this was further increased by merging Sector 20 with Sector 20 (Part 2) for

calculation of enhancement. Sector 20 (Part 2) having large Common Areas, our liability was considerably increased and on top of this, interest was levied retrospectively at 15% per annum from 1991.

35. In our Writ Petition filed in Feb 2018, we had objected to both these demands and quoted various court judgements in support. In particular, the issues of arbitrary definition of common areas and retrospective merger of two sectors was stressed upon.

36. Simultaneously with the legal route, we joined the other societies in pressurizing the government to define Common Areas, for which no definition existed. In the run up to the state elections the government ordered a Three Judges Committee to define Common Areas. The material collected by us, through 171 RTI applications was also submitted to the Committee. The Report of the Three Judges accepted our contentions, in near totality, and vastly reduced the common areas being claimed by HUDA.

37. During the Final Arguments on our Writ on 05 Dec 2019, Counsel for HUDA submitted that they were prepared to consider all the points raised by us in the Petition, as well as to carry out recalculation based on the Three Judges Committee Report.

38. However, after repeated reminders only one hearing was held by CCF, HUDA on the limited, (but vital) question of the illegal retrospective merger of two sectors, which was attended by President and General Secretary. Initially, our submission was rejected. However, the issue was again forcefully taken up with HUDA, pointing out the errors in their contention, consequent to which an amendment to the policy has now been issued, whereby enhancement of a sector is to be calculated based on the common acquisition and common enhancement awards, by competent courts. For remaining issues and recalculation, he has referred the matter to Administrator, Panchkula.

39. This has rendered the second demand of 19/01/2018, based on the illegal and retrospective merger of two sectors as redundant, although it has not been formally withdrawn by HUDA. Only the first demand of 14/01/2016, now remains to be contested.

40. Despite repeated requests Administrator, Panchkula did not carry out recalculation based on the Three Judges Committee Report. Consequently, a CM was lodged before Hon'ble High Court in Feb 2021, for directions to carry out recalculation and consider all our points, as promised. This hearing is delayed due to Covid.

41. Our calculations, vetted by our CA, show that with application of the provisions of the Three Judges Committee Report and negation of the retrospective merger of sectors, we should either have no liability or very minimal liability for Third LEC. This was explained at length during the last GBM held on 04 Apr 2021.

42. A decision was taken during earlier GBMs, and was reiterated during the last one on 04 Apr 2021, to the effect that members desirous of withdrawing their Third LEC deposit, were free to do so, with the proviso that they would have to deposit the dues again, if finally required to do so at some future point of time. However, members who have sold their flat, or sell the flat in future, will have to deposit the amount with the society, since the onus for the same rests with them. Over 200 members have withdrawn their deposits.

Annual General Meeting

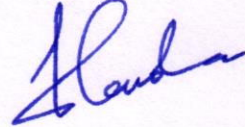
43. It was decided to convene the Annual General Meeting at an early date to approve the Audit Report and decide on the other issues.

Points From Members

44. Lt Col Kulwant Singh enquired about the status of a vacant room in the shopping complex. It was clarified that the overwhelming desire of the society, established through a poll on MyGate, was for setting up of a doctor's facility in the available space. Responses had been received from a member and a resident. However, both had requested for some more time, in view of the covid situation.



Date : 18 Aug 2021 (Col R S Rathee, Retd)
President



(Brig D K Mohan, Retd)
Gen Secretary

