

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

RE-ADJOURNED GENERAL BODY MEETING HELD ON 18 SEP 2022 :
MINUTES OF THE PROCEEDINGS

Attendance

1. Re-adjourned General Body Meeting was held on 18 Sep 2022, which was attended by 101 out of 551 eligible members. (18 % attendance against required Quorum of 15%).

Agenda

2. The agenda was as under:-

- (a) Action to be taken on Last and Final Settlement Scheme 2022 (LFSS 2022) offered by HSVP (earlier HUDA) regarding Land Enhancements.
- (b) Status of deposit of Third LEC and future course of action.
- (c) Approval of Report of Internal Audit Board of Society Accounts for FY 2021-2022.
- (d) Amendment of contradictory provisions of Sub Para 8 (i), Sub Para 43 (d) and Sub Para 44 (b) of Society Bye Laws through Special Resolution.
- (e) Update on following ongoing legal cases and approval of course of action, where required:-
 - (i) CWP 3226 of 2018 by Society against HSVP, (earlier HUDA).
 - (ii) NCDRC Case.
 - (iii) CWP 26720 of 2019 – Mr Pushpinder Kalia vs Sandeep Vihar and fresh CWP 9111 of 2022 (Brig S S Jaswal vs Sandeep Vihar) and CWP 12083 of 2022 (Lt Col Piyush Katal, Maj Gen Anil Kumar, Miss Rubaina Chauhan, Mrs Seema Malik, Mr Ashok Kumar Chadha and Dr Kuldeep Singh) vs our Sandeep Vihar Society.
 - (iv) Petition filed by Col S K Chauhan for setting aside of elections of Aug 2020 with District Registrar of Societies.
- (f) Action to be taken on unauthorised fitting of awnings over parking space and other unauthorised constructions/fittings on society land by members.
- (g) Action to be taken on unauthorised modifications to internal common areas and facade of blocks and installation of higher capacity lighting than the existing one and other unauthorised constructions and encroachments in contravention to Haryana Govt orders, Society Bye Laws and General Body approvals.

- (h) Action to be taken regarding blockage of passage to block, marked in red, being encroached upon by member by dumping of stores and parking of vehicle.
- (i) Points submitted by members.

Society Update

3. Approval of Change of Name of Society. The President informed that all formalities connected with change of the society name including re-registration had been completed. The new name of the society is "Sandeep Vihar (AWHO) Society".
4. Printing of Amended Bye Laws. The revised Bye Laws had been printed through the single-handed efforts of Col H S Ahuja and were available on cash payment from society office.
5. Preparation of Property Ledger. Another effort by Col H S Ahuja had been the preparation of the Property ledger of the society – a deficiency which had been adversely commented upon in every audit by Chartered Accountant right from the very first audit. Stickers had also been prepared and affixed on society property.
6. Annual Stock Taking Board. Based on the property ledger, an annual stock taking board had been held for the first time to verify all property.
7. Augmentation of Solar Power Project. The project for augmentation of Solar Power Project by 30 KW had been completed, thus making a total installed capacity of 100 KW. The status of the electricity production and savings effected between Sep 2020 and Sep 2022 are as under:-
- Units produced – 1,78,065.
Savings effected including subsidy – Rs 13,47,067/-.
Original investment recouped – 43%.
Total investment recouped – 31%.
Time to recover full investment – three years more.
Life of project – 25 years.
8. Fire Fighting. All fire extinguishers whose life had expired have been recharged.
9. Issue of Identity Card to Members. The HRRS Rules, 2012 and the Society Bye Laws mandate that all members must be issued with identity cards. However, this had not been implemented since the beginning. The project to issue identity cards had commenced and the first batch would be ready shortly. This, in due course, would become a necessary identification for attendance at GBM and for voting. All members who had not yet submitted their forms were requested to do so at the earliest, either at the office or through email. The requisite documents are available on website "sandeepans.com" for information of outstation members.
10. Quotations For Works. The President informed that although some works had been approved during GBM of 27 Mar 2022, no progress could be made on the

same due to the engagement of the management in replying to various complaints by Col S K Chauhan and colleagues and attending the hearings. Attention could be paid these only after the final hearing of the last complaint on 12 Aug 2022.

11. The following quotation had been received in response to the tenders issued.

(a) Repair and Maintenance of Electric Meter Rooms of all blocks. Rs 4.75 lakhs. Proposed for acceptance.

(b) Periodic Maintenance of Interiors of all residential blocks – Rs 28.70 lakhs. Not recommended for acceptance being too high. Alternative measures would be explored either through execution under society arrangements or by re-tender.

12. Appreciation was expressed for Capt G C Bhatt and Er. A S Negi who had come forward to prepare the tender documents, carryout the opening board and also volunteered to monitor execution for the work.

13. Ageing Infrastructure. The infrastructure of the society especially the water supply system and electricity supply system are showing signs of wear and tear. Residents do not get to know about these because immediate backup/alternate arrangements are made. However, some of the major breakdowns in the recent past have been as under:-

(a) Fresh water pipes in E10, D3 and D4 blocks have burst.

(b) Underground cables in D4 and E9 blocks have been damaged.

(c) Motor for pumping fresh water has had to be purchased. The old motor has been repaired to be kept as backup.

(d) The lightning arrestors and GO Switches are prone to frequent burn out, especially at Gate No. 3.

14. The President then handed over to General Secretary for further issues.

Passing of Minutes of GBM of 27 Mar 2022

15. The Minutes were proposed to be approved by Col Surinder Singh (D3/403) and seconded by Brig R P Singh (E2/302).

LFSS Scheme Offered by HSVP for Settlement of Enhancement Dues

The LFSS Scheme

16. It was brought out that HSVP (earlier HUDA) had brought out a voluntary scheme for settlement of outstanding dues of enhancement. The main provisions of the scheme were more or less identical to the "Full and Final Scheme" which had been promulgated last year and had been rejected for acceptance by the General Body. However, being a new scheme the same had to be placed before the General Body for deciding action on the same.

17. The essential feature of the scheme are as under:-

- (a) Only dues will be realised. There will be no refunds.
- (b) The definitions of Common Areas and other reliefs given by the Three Judges Committee Report will be not be applied to enhancement demands issued prior to 01/04/2015. (First and Second Enhancement in our case).
- (c) Demands after 01.04.2015 will include "Less Conveyed" amounts and interest thereon from 1991. In our case HSVP had applied a rate of Rs 202.50 per sq yd instead of the award of Rs 250/- per sq yd in the earlier enhancements. It was now demanding the residual Rs 47.50 per sq yd across all the four enhancements with interest from 1991.
- (d) Existing court cases would have to be withdrawn.
- (e) Any calculations in future would have to be accepted without dispute.

Hoodwinking by HSVP

18. It was brought out that HSVP had been hoodwinking the allottees by demanding Third and Fourth Enhancement which were not based on orders of any competent court under the Land Acquisition Act. Furthermore, it had withdrawn the order for both these enhancements before the High Court.

19. The major illegality to increase enhancement demands had been to vary the Common Areas from 64 acres in the First and Second Enhancements to 73.43 acres in the Third Enhancement. This had finally been reduced to 39.94 acres after applying the orders of the Three Judges Committee Report. Any recalculation of all the enhancements based on this Common Areas would result in a massive refund for the society.

20. Furthermore, HSVP had stipulated in Speaking Order 6/2015 (which formed the basis for the Third Enhancement) that a credit of land cost and interest thereon, totalling Rs 16.76 per acre would be given. Any calculation would have reduced the interest on this amount from 1991 to date. However, HSVP has now conveniently ignored its own orders.

21. HSVP is now avoiding Recalculation based on the letter dated 22.08.2019 because application of the Common Areas as defined therein and the other policies would lead to a massive refund to us.

Status of Our Court Case Against HSVP

22. In the Final Hearing of the case in the High Court, Counsel for HSVP had submitted that our claims would be considered as made out in our petition and recalculations as well would be done in terms of the policy letter of 22.08.2019. The case was accordingly disposed off.

23. One aspect of the case (retrospective merger of Sector 20 and Sector 20 (Part 2) for calculation of enhancement) was disposed off by CCF, HSVP and the remaining issues were forwarded to Administrator, HSVP, Panchkula for further action. However, these remained unacted upon and consequently we filed a CM before the High Court. On 05 Aug 2022, the High Court has issued orders to Administrator, HSVP, Panchkula to act on the remaining points. In case of noncompliance within three months, we will file a contempt petition.

Decision by the House.

24. After discussion, the House unanimously resolved that the LFSS Scheme should not be accepted and every effort must be made to seek an early and favourable outcome to the ongoing legal proceedings.

Status of Third LEC Deposits

25. It was intimated that the principal amount for deposit in respect of all eligible members had been refunded except for one member who was presently abroad. Deposits of 62 members who had sold their flats continued to be held in accordance with the decision of the General Body, till resolution of the enhancement demand by HSVP. The account had been audited by the Internal Audit Board as well as by the Chartered Accountant.

26. The status of the account was as under:-

Total Deposited	Rs 7.51 crore	
Refunded to eligible members	Rs 6.30 crore	400 members
Balance eligible for refund	Rs 0.02 crore	1 member
Withheld on account of resale	Rs 1.19 crore	62 members
Yet to be refunded	Rs 1.21 crore	
Interest Accumulated	Rs 1.38 crore	

27. It was proposed that the interest accumulated be refunded to 401 eligible members. This would entail deduction of TDS and reflection in form 26AS of the concerned member. Certain bank charges had already been incurred on these accounts and expenditure would be incurred on the refund and filing of details on Income Tax Website. These would obviously have to be deducted out of the accumulated interest.

28. It had been advised by the Chartered Accountant that the most convenient method to calculate individual dues as well as cater for the incidental expenses was to calculate the refund due from the first day of the quarter following the deposit and the last day of the quarter preceding the withdrawal. This was based on the fact that interest was credited quarterly which would facilitate the pro rata calculation of each member.

29. The proposal was unanimously approved by the House.

Report of the Internal Audit Board for FY 2021-2022

30. The Internal Audit Board for FY 2021-2022 had been carried out by Brig K C Sood (E11/102), Col Surinder Singh (D3/403) and Col R C Jaswal (E7/102). The board tallied every receipt/expense voucher with the account ledger and the bank pass books for both the society account and the Third LEC account, taking three weeks in the process. All accounts were found to be correct.

31. The Board also checked the individual records of payment of society charges during the year and found the all dues had been paid except for Maj Dimple Singla (D4/704) whose dues have accumulated for long and her whereabouts are not known.

32. Since there were no observations by members, the Board was proposed to be approved by Brig S K Aggarwal and seconded by Col Sushil Wali.

Amendment of Certain Provisions of Society Bye Laws Through Special Resolution

33. Certain provisions of the Society Bye Laws pertaining to eligibility of members to vote had been found to be contradictory during recent hearing by District Registrar of Societies of the complaint regarding elections of Aug 2020 by Col S K Chauhan and Others.

Contradictory Provisions (Highlighted)

34. 8. **Cessation of Membership/Disqualifications.**

(i) No apartment owner shall be entitled to vote on the questions of the election of members of the Managing Committee or, the President, General Secretary, Treasurer or any other office bearer, or be entitled to stand for election to such office if he or she is in arrears of any payment to the Society on account of common maintenance charges, utility bill payments, common areas user charges, or any other charges levied by the Society, **on the first day of the month of the election for more than 60 days.**

43. **Members to Contribute for Various Charges.**

(d) After ninety (90) days of default in payment of maintenance or other charges due, the essential/utility services such as supply of water, electricity, conservancy etc. may be discontinued besides suspension of the membership. The membership so suspended may be revoked after clearance of the due amount along with penal charges. **However, the voting right of such a defaulter shall remain suspended till the end of the ensuing year.**

44. **Adherence to Bye-laws, Right to Vote and Obligation for Timely Payment of all Charges and Contributions.**

(b) Every person admitted as a member on the date of notification of elections, **subject to the member not being in arrears of membership**

fee/annual subscription or other charges, for a period of 60 days or more, shall have the right to exercise the vote in person.

35. The following amendment to the latter two provisions were placed before the House to remove the contradictions.

43 (d) Delete the last sentence which reads:-

“However, the voting right of such a defaulter shall remain suspended till the end of the ensuing year.

44 (b) Reword the sub para as under:-

“Every person admitted as a member on the date of notification of elections, shall have the right to exercise the vote in person, **subject to not being in arrears of any payment to the Society** on account of common maintenance charges, utility bill payments, common areas user charges, or any other charges levied by the Society, **on the first day of the month of the election, for more than 60 days”.**

36. Col S K Chauhan opined that the provision of Para 43 (d) regarding the cessation of membership for non-payment of society dues for a period till the end of the year was in accordance with Para 22 (iii) of the HRRS Act, which reads as under:-

“Cessation of membership. – A member admitted to a society shall cease to be a member in the following events:-

xxx

(iii) Upon his failure to pay membership fee or annual subscription fee continuously for a period as may be prescribe.”

37. It was pointed out that the provision being mentioned did not specify that membership would continue to remain ceased even after settlement of dues and therefore the amendment which restored membership, after settlement of dues by a defaulter was in order, and, in compliance with the Act.

38. Rfn S C Pathania raised an objection that according to Para 5 (v) of Annexure 3 to the HRRS Rules 2012, a Special Resolution could be passed in a Readjourned meeting only when the quorum was 25 % and not 15 % as was the case in the current meeting. The General Secretary clarified that Annexure 3 applied to a “Multi-purpose society without a Collegium” whereas our society was governed by Annexure 5 which pertained to “Resident Welfare Association of Apartment Owners”. Furthermore, the existing Society Bye Laws had been amended in 2021 through a meeting with only 15 % quorum and had been approved by the District Registrar.

39. The proposal was thereafter unanimously approved by the House, i.e 100% in favour against the requirement of 60 % for a Special Resolution.

Update on Legal Issues.

NCDRC Case Lodged by the Society Against AWHO

40. The final hearing of the case was slated for 11 May 2022. However, our Counsel expressed inability to attend the same. Fresh date for final hearing is on 17 Nov 2022.
41. Based on our case, Vikram Vihar, Sector 27, Panchkula had also filed a case against AWHO drawing the following points from our case:-
- (a) Compensation for delay in handing over flats.
 - (b) Loss of rebate from HUDA for not completing the project within three years.
 - (c) Poor quality of construction.
 - (d) Sale of parking slots to allottees.
42. However, the Vikram Vihar case has since been dismissed by NCDRC, which implies that these points would also not be accepted by the NCDRC in our case.
43. Two of the other remaining issues in our case have been addressed by AWHO as under:-
- (a) Return of Corpus Fund collected at handing over. The collected amount has been returned. However, AWHO is agreeable to reconciling the records with us.
 - (b) Refund of 2nd LEC interest received from HUDA. The interest has been/is in the process of being refunded to those who have applied to AWHO.
44. The only issue remaining is regarding the handing over of the AWHO Office which we claim was meant to be the MI Room for the society. On this issue AWHO has claimed in its submissions before the NCDRC that no such building as MI Room has been constructed. Furthermore, necessary approvals for construction of the AWHO Office building have been taken from HUDA and the building has been registered in its name.
45. It was recalled that AWHO had offered to transfer the building to the society at 50 % of book cost (then approx. Rs 40.00 lakhs) in May 2019. The proposal was approved by the GBM of 30 Jun 2019. However, the proceedings of the GBM were objected to by the same complainants who have made every complaint over the last five years. Consequently, the District Registrar directed the GBM to be reconvened. However, AWHO seeing the lack of consensus within members withdrew the offer.

46. It was reiterated that the consistent stand of the management has been that the decision in the case was unlikely to be in our favour and that we would regret the losing of the building due to the actions of the few members who were always at the forefront of such activities against the society. However, efforts would be made to resume negotiations with AWHO in case of negative outcome of the case. AWHO is unlikely to be as cooperative after winning the case.

CWP by Mr Pushpinder Kalia Against the Society

47. A case was lodged by Mr Pushpinder Kalia (E9/604) seeking refund of contribution to Long Term Development Fund, claiming it to be Transfer Fee. Additional Writ Petitions had now been filed by some members and tagged to Mr Kalia's petition as per following details:-

- (a) CWP 9111/2022 -Brig S S Jaswal (E6/404)
- (b) CWP 12083/2022:-
 - (i) Lt Col Piyush Katal (E1/101)
 - (ii) Maj Gen Anil Kumar (E3/703)
 - (iii) Miss Rubaina Chauhan (E7/501)
 - (iv) Mrs Seema Malik (E9/502)
 - (v) Mr Ashok Kumar Chadha (D4/202)
 - (vi) Dr Kuldeep Singh (D3/702)

48. Approval of the House was accorded for the management to defend the case.

Petition by Col S K Chauhan and Colleagues for Setting Aside of Elections of Aug 2020

49. Elections to the managing committee were conducted on 09 Aug 2020 by four senior and respected members of the society. Out of the eleven posts, five were won by colleagues of Col S K Chauhan. On 10 Aug 2020, Col S K Chauhan and his colleagues (including two who had been elected) submitted a petition to the District Registrar, Firms and Societies, Panchkula for setting aside the election on numerous whimsical grounds.

50. The HRRS Act, 2012 stipulates that election complaints made prior to the elections are to be dealt with by the District Registrar and those submitted after the elections are to be dealt with by the State Registrar of societies. Section 40 of the HRRS Act, 2012 further stipulates that complaints against election results are to be signed by at least 25% of Members for direct submission to State Registrar, or to be sent on "Reference" by the District Registrar, if he finds merit in the case. In this case, the complaint was signed by only 17 members against the requirement of 139 and was therefore submitted to the District Registrar. The District Registrar, without determining the merits of the case, simply forwarded it to the State Registrar.

51. The State Registrar heard all the issues mentioned in the complaint, but dismissed it on the grounds that it had not been submitted in compliance with provisions of the HRRS Act, 2012.

52. Col S K Chauhan thereafter filed an appeal against the order of the State Register with the Registrar General of Societies, Haryana. The Registrar General of Societies reverted the case back to the District Registrar to determine whether the case was fit to be sent on "Reference" after going into the merits of the points raised in the complaint.

53. During these hearings, fresh points were raised by Col S K Chauhan – two years after the election even though being time barred as submitted after 30 days of limitation after election. All points were discussed in detail and consequent to hearing the complainants and the respondents, the District Registrar dismissed the petition through a very detailed order. The operative portion of the order is as under: -

"In view of the above-mentioned observations, submission made by the counsel for the appellant and respondent and as per the record submitted, **I am of the considered view that the matter has been thoroughly examined and there seems no contravention/violation of provisions of HRRS Act, 2012 and Rules made thereunder, or the society bye laws. The petition/complaint is hereby disposed of being void of any merits as no ingredient of section 40 of HRRS Act, 2012 is made out**".

Non Compliance With Society Bye Laws

Unauthorised Fitting of Awning Outside the Under Stilt Parking Space

54. The President informed that a member had fitted an awning outside his stilt parking and had not removed the same despite repeated requests by the management. The concerned member stated that he had done so to protect his vehicle from water dropping from flats above. The President placed on record that the authorised parking space of the member was under the stilt and not outside it. Furthermore, any area outside the flat and the stilt parking was common area and could not be used for any purpose without approval of the Management/General Body. In case the awning was not removed, it would lead to a proliferation across the society. Brig B P S Lamba (E15/301) stated that it would lead to the society looking like a JJ Colony with all types of individual designs. These views were echoed by other members as well.

55. The House resolved that the concerned member remove the awning within three days, failing which the management was authorised to remove it.

Unauthorised Modification of Blocks

56. The President informed that some blocks had carried out internal beautification of their blocks under their own arrangements. This was perfectly acceptable. However, two of the blocks had placed metal structures between the adjacent blocks which affected the external facade of the society and also served as a precedent for other blocks. The concerned block representative stated that this was an attempt at beautification by growing creeper plants over them. The

consensus of the House was that such external modifications were not in order and the concerned blocks should remove them within three days, failing which the same could be removed by the management.

57. The President also observed that initially a greater number of lights and of higher wattage had been fitted on the ground floor as part of the renovation. However, these had been subsequently rationalised. Since the electricity bill of common areas had to be shared by all, the lighting must be equitable – a maximum of four light of six-watt capacity. Any lights in excess of this wattage were authorised to be removed by the management.

Blocking of Passage to Blocks

58. The President informed that Col V K Singh (D4/701) had been permanently blocking the common area passage to the block, clearly demarcated by red stone, by parking a second car, two motorcycles and a steel almirah. After repeated requests, the car had been removed but the motor cycles and the almirah continued to block the passage.

59. The House resolved that in case the obstruction continued, the motor cycles be clamped and removed after payment of the applicable fine and the almirah be delivered to his flat and labour charges be recovered from him. In case of default in payments, the provisos of Para 43 (d) remained applicable.

60. Furthermore, any other obstructions of passage to blocks which might be existent be similarly dealt with.

Blocking of Paid Parking

61. The President informed that Mr Vikas Mittal (D5/204) had been blocking a paid parking since Aug 2020. He had refused to accept any communications sent by hand or through Speed Post, although these had been communicated by WhatsApp.

62. The House authorised the management to lodge a police complaint against the member, as also to recover the dues for the period of use. In case of default, in payments, the provisions of Para 43 (d) remained applicable.

Points from Members

Point No. 1 - Procedure to Resolve Complaints Within the Society (Col Parveen Ahluwalia, D1/501)

63. A plethora of complaints have been lodged outside the society by the same few members to divert the focus of management from constructive to infructuous issues. This is to the peril of society and should not be accepted. A procedure to resolve such issues within the society must be evolved to prevent high jacking of functioning of society by building false narrative by few members.

64. A suggested procedure for resolution or disputes was that in case of disagreement, the management to detail a Board of Members for in depth check of issue. In case the issue was still not resolved, then the issues to be placed

before GBM for final decision. The GBMs decision to be final and binding and not contestable within or outside the society.

Point No. 2 - Cooling of Period For Members of Management Who Resign

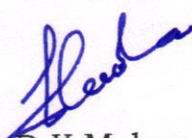
64. Members who resign after election, place additional load on remaining members of the Managing Committee, which is detrimental to functioning of society. Such members who resign, should perform have a cooling off period, by not being permitted to contest the next election.

66. Both the points were appreciated and generated discussion, but no decision could be arrived at due to paucity of time.



Date : 24 Sep 2022


(Col R S Rathee, Retd)
President


(Brig D K Mohan, Retd)
Gen Secretary