

HARYANA SHAHARI VIKAS PRADHIKARAN

Memo No.HSVP/CCF/Acctt-II/2018 139787

Dated: 11/7/18

To

Sh. P.C. Yadav, Advocate,
305-C, Satyam Apartments, Swastik Vihar,
Zirakpur, Distt.-Mohali.

Subject:- For the compliance of the order issued by the Hon'ble High Court in CWP No.1670 of 2018 titled as The Goodwill Haryana Accounts Employees Co-operative Group Housing Society No.14, Sector-20, Panchkula V/s State of Haryana & others.

1. Please refer to the subject cited above.
2. Please find enclosed herewith the copy of speaking order No. 17/2018 passed by the Administrator, HSVP (HQ), in case of CWP No. 1670 of 2018 titled as The Goodwill Haryana Accounts Employees Co-operative Group Housing Society No.14, Sector-20, Panchkula V/s State of Haryana & others, in compliance of Hon'ble High Court vide order dated 29.01.2018.

DA/As above:

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Chief Accounts Officer,
For Administrator (HQ),
HSVP, Panchkula

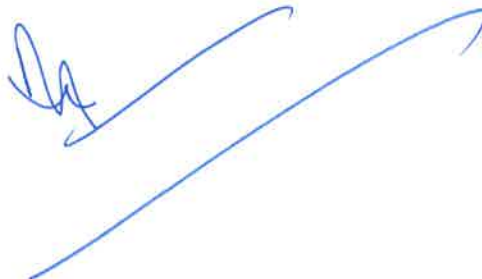
Passed in compliance with the order issued by the Hon'ble High Court in CWP No.1670 of 2018 titled as The Goodwill Haryana Accounts Employees Co-operative Group Housing Society No.14, Sector-20, Panchkula V/s State of Haryana & others.

1. This speaking order is to be passed in respect of Sector-20, Panchkula in compliance of the orders dated 29.01.2018 of Hon'ble Punjab & Haryana High Court in CWP No.1670 of 2018 titled as The Goodwill Haryana Accounts Employees Co-operative Group Housing Society No.14, Sector-20, Panchkula V/s State of Haryana & others. The orders dated 29.01.2018 are reproduced as under:-

"After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the representation dated 27.1.2016 Annexure P-I0) followed by the legal notices dated 9.11.2016, 14.3.2017 and 1.05.2017 (Annexure P-12, P-14 and P-15. respectively), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order."

Records of Personal hearing

2. The first hearing was held on 15.03.2018, 05.04.2018 and 10.04.2018 wherein the petitioner came present and deliberated all the issues in detail. The above said Society submitted the letter dated 15.04.2018 with the request to supply the necessary documents. The information was supplied to Sh. P.C.Yadav, Advocate vide office letter no. HSVP/CCF/Acctt-II/2018/106848 dated 28.05.2018. One point relates to Chief Town Planner, HSVP, Panchkula and the desired information was supplied vide letter dt. 08.06.2018 and the rest of the information was given by the Estate Officer, HSVP, Panchkula vide letter dt. 22.06.2018.



Discussions and Findings

3. There is a lot of litigation and queries from the plot owners about the manner of determination of additional price. A need has been felt to notify the procedure required to be followed while determining the additional price under Regulation 2(b) of Haryana Urban Development (Disposal of Land & Building) Regulations, 1978. Therefore, a policy has now been approved by the HSVP Authority in its 111th meeting held on 27.7.2016 at Agenda item No.22. For the guidance of the public, the guiding principles on the basis of which enhancement is calculated by HSVP are very available on HSVP Website under the link

[https://www.HSVP.gov.in/ layouts/CCF/Policy regarding recovery of enhanced compensation from allottees in case of sale of land or building by allotment.pdf](https://www.HSVP.gov.in/layouts/CCF/Policy_regarding_recovery_of_enhanced_compensation_from_allottees_in_case_of_sale_of_land_or_building_by_allotment.pdf)

4. Gist of findings on the issues raised by petitioner in his representation dated 15.04.2018 are as under:-

4.1 HSVP had issued the recovery notices of enhanced compensation in respect of Sector-20, Panchkula as and when the payments of enhanced compensation were made to the concerned land owners pertaining to the Awards announced for the development of Sector-20, Panchkula. Detail of recovery notices are as follows:

- (i) First recovery for Rs. 678.80 per sq.yd. issued by Estate Officer, HSVP in Sept., 2002.
- (ii) 2nd recovery for Rs. 2276.82 per sq.mtr. (Rs. 1903.69 per sq.yd.) issued by Estate Officer, HSVP in July, 2010.
- (iii) A representation from Joint Action Committee of Group Housing Societies of Sector-20, Panchkula was received against the recovery of 2nd enhancement of Sector-20, Panchkula. Thereafter, recovery of 2nd enhancement was revised and conveyed to Estate Officer, HSVP, Panchkula vide this office letter No. HSVP-CCF-Acctt-II-2011/15353 dated 06.05.2011 as below:-

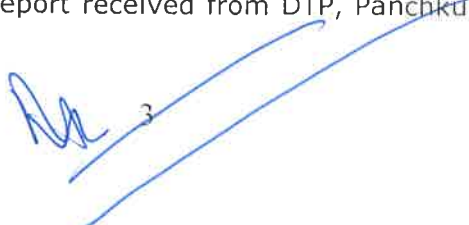
"As per revised calculations the rate of recovery of 1st enhancement worked out to Rs. 530.47 per sq.yd. instead of Rs. 678.80 per sq.yd. whereas the rate of recovery of 2nd enhancement was worked out to Rs.1747.10 per.sq.yd. against the recovery rate of 1903.69 per.sq.yd. The excess

recovery of 1st enhancement of Rs. 148.33 per sq.yd. was updated with interest from 1.10.2002 to 10.6.2010 i.e. from the date of calculation of 1st enhancement till the date of calculation of second enhancement @15% p.a. and it worked out to Rs. 319.46 per sq.yd. After giving the credit of Rs. 319.46 per sq.yd. the net rate of recovery of 2nd enhancement was worked out to Rs. 1427.64 per sq.yd.(i.e. 1747.10-319.46) for which the revised notice has earlier been issued subject to the following conditions:-

- a) The first rate of recovery of enhanced compensation of Rs. 678.80 remained intact as the credit of excess rate of recovery of Rs. 148.33 per sq.yd. has already been given in the 2nd recovery of enhanced compensation alongwith interest @ 15% p.a. from 1.10.2002 to 10.6.2010.
- b) The allottees who had paid the extra amount due to decreased rate of recovery of 2nd enhanced compensation, were required to be refunded the excess amount alongwith interest @ 15% per annum (simple), from the date of deposit till the date of refund.
- c) The allottees, who had not paid the amount were required to be charged the rate of interest @ 15% per annum on the reduced rate of 2nd recovery from the date of original notice of 2nd enhancement.

4.2 The additional price on account of the enhanced compensation to be recovered from allottees of Sector-20, Panchkula was prepared on the basis of award of Hon'ble ADJ, Panchkula @ Rs. 160/- sq. yd. and Rs. 250/- per sq. yd. The same was conveyed to Estate Officer, HSVP, Panchkula vide this office letter No. HSVP-CCF-Acctt-II/2002-24288 dated 11.09.2002 for recovery from allottees. Further, on the basis of award of ADJ, Panchkula dated 10.12.2008 @ Rs. 394/- per sq. yd., the recovery of differential amount @ $394-160=234/-$ per sq. yd. and $394-202.45=191.55$ Per sq. yd. conveyed to Estate Officer, HSVP, Panchkula vide this office letter No. HSVP-CCF-Acctt-II-2011/15353 dated 06.05.2011. The recovery amount of 1st enhancement is automatically adjusted in the recovery statement of 2nd enhancement.

4.3 HSVP is bound to follow the area calculation by the DTP in respect of the sector layout. As per report received from DTP, Panchkula on 4.10.2016,



and total area under various utilities for Sector-20 (Part-I) Panchkula is as under:-

Sr.No.	Land use Area	Old Area (in acres)	New Area (in acres)
	Total area acquired		254.75
i)	HSVP land given to Samar Estate		2.832
ii)	Land given by Samar Estate		1.978
iii)	Difference of I & ii above		0.854
	Net Planned Area		253.896
1.	Plots(GH Sites)	101.4	96.24
	Area reserved for HSVP		6.85
	Area under Mandi		20.00
	Area Under Ashiana Scheme		1.76
2.	Commercial	22.39	21.67
	Area under public and semi public		6.00
	School/Crèches	11.87	12.20
4.	Dispensary	1.25	1.25
5.	Police Station		2.10
6.	Telephone Exchange		1.00
	Religious Building	0.20	0.33
7.	Community Centre	2.00	2.00
8.	Electric Sub Station	0.80	0.8
9.	Water works	6.25	6.25
	HSVP staff quarters		1.09
	Petrol pump		0.22
	Tubewell		0.71
10.	Roads/Parks/Green Belt	46.50	73.426

The earlier existing calculations of additional price have been done on the basis of above land utilization in Sector-20 (Part-I), Panchkula as provided by CTP (HSVP).

4.4

It is also clarified that :-

- (i) As per **regulation -2 (b) of The Haryana Urban Development (Disposal of Land & Building) Regulations, 1978**, "ADDITIONAL PRICE" is determined on account of the enhancement of compensation of any land or building in the same sector by the Court on a reference made under section 18 of the Land Acquisition Act, 1894. Once the enhancement has been ordered by the Court, HSVP is bound to pay the same to the land owners. In turn, same burden is passed to the HSVP allottees in the form of demand of additional price on account of enhancement.
- ii) That while making the calculations of additional price of Sector-20, Panchkula, the differential enhancement has been proportionately off loaded on the total saleable area of the sector (sold both by allotment or auction). This automatically implies that common (non-saleable) area has been proportionally off loaded on the total saleable area of the Sector.
- iii) That there are two tiers of development process in an urban estate. The first tier relates to providing and integration of town level facilities and services under external development works. This component is funded through levy and recovery of external development charges (EDC). The charges on account of external development works are divided proportionately on all the sectors in the urban estate i.e. both private colonizers as well as HSVP plot owners. The second tier relates to facilities within the sector under internal development works, this is recovered in the form of internal development charges (IDC). But charges on internal development works are to be accounted for under "Development Cost" in the price fixation formula for the sector. Therefore, common facilities of only external development works can be charged to the private builders proportionately in the form of EDC levied by the DGTCP at the time of grant of license. The internal development works within the private licensed area are borne by the private builders. Similarly internal development works within

the HSVP allottees area are to be borne only by the HSVP allottees.

5. It is also pertinent to mention that Speaking orders dated 09.10.2015 have already been passed in compliance of the orders dated 25.09.2013 of Hon'ble Punjab & Haryana High Court in CWP No. 14689 of 2010 & 17239 of 2010 in respect of Sector-20, Panchkula in the matter of The Angel Co-operative Group Housing Society Ltd. (GHS No.103) & Sharanjit Singh & others (GHS No. 102) and covers all relevant points in detail in respect of the issues raised by the present petitioner thus the same Sector i.e Sector-20, Panchkula.

The speaking order is available on the website of HSVP under the link [https://www.HSVP.gov.in/layouts/CCF/Speaking Orders of sec 20 panchkula. pdf](https://www.HSVP.gov.in/layouts/CCF/Speaking%20Orders%20of%20Sector%20Panchkula.pdf).

6. Further mentioned that quantum of recovery of the additional price (3rd enhanced compensation) to the acquired land for the development of Sector-20 Panchkula has been revised vide memo no.13034 dated 19.01.2018 with partial modification of this office letter No. HUDA/CCF/Acctt-II/2015/18919 dated 09.10.2015 on the basis of detail of area as per revised approved layout plan cum demarcation plan of Sector-20 (Part I) and (Part-II) bearing drawing No. DTP (P) 1404/207 dated 23.02.2017 and drawing no. DTP (P) 1405/2017 dated 23.02.2017 and has already been uploaded on the website of HSVP.

Table No. 1				
Detail of area as per approved Revised layout cum Demarcation Plan of Sector-20, (Part-I), Panchkula bearing drawing no. DTP (P) 1404/207 dated 23.02.2017 and drawing no. DTP (P) 1405/2017 dated 23.02.2017				
(Sector-20, Part-I and II, Panchkula)				
Sr. No.	Particulars	(Area in Acre) (Sector-20, Part-I, PKI) (A)	(Area in Acre) (Sector-20, Part-II, PKI) (B)	Total (A+B)
1	Total area acquired	254.75	50.81	305.56
2	Area under land given by HUDA to SAMAR Estate	0.00	2.63	2.63
3	Difference of 1 & 2 Above	0.00	0.61	0.61
4	Area under litigation	18.48		18.48
5	Net planned area	236.27	51.42	287.69
Detailed of planned area				
1	Area under plots		9.17	9.17
2	Area under land given by HUDA to SAMAR Estate	0.85		0.85

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	(2.83-1.98)			
3	Area under Mandi	20.00		20.00
4	Area under Hospital	0.49		0.49
5	Area under Nursing Home	1.63		1.63
6	Area under Ashiana Scheme	1.76	8.72	10.48
7	Area under Group Housing	99.17	3.95	103.12
8	Area under Commercial (including 2Nos. Petrol Pump)	22.82	2.92	25.74
9	Area under Public and Semi-public	4.05		4.05
10	Area under Social Charitable Site	0.64		0.64
11	Area under Institutional Site	0.65	1.02	1.67
12	Area under High School	6.42	2.93	9.35
13	Area under Primary and Nursury School	2.40	2.09	4.49
14	Area under Primary School	1.38		1.38
15	Area under Nursury School	1.67	0.45	2.12
16	Area under Nursury School/creche		0.90	0.90
17	Area under Play Ground	0.43		0.43
18	Area under dispensary	1.25		1.25
19	Area under Police Station	2.29		2.29
20	Area under Telephone Exchange	1.00		1.00
21	Area under Religious Building	0.59		0.59
22	Area under Community Centre	2.00		2
23	Area under Electric Sub-station	0.77		0.77
24	Area under water works/HUDA Staff Quarter	7.52		7.52
25	Area under Town planning and officers Quarter	2.87		2.87
26	Area under N.F.L.	0.41		0.41
27	Area under Tube Well	2.20	0.25	2.45



28	Area under petrol pump	0.59		0.59
29	Area under Storm Water Line	0.10		0.10
30	Area under Ashiana Scheme	4.72		4.72
31	Area under Roads/parks/Green Belt	45.60	18.83	64.43
32	Area under Sulabh Sochalaya		0.19	
	Total	236.27	51.42	287.69

7. Further issue was raised in the case of COCP No. 3380 of 2017 in CWP No. 26760 of 2016 - The Karan Cooperative Group Housing Society Ltd. V/s HUDA. In this regard the matter has been examined and discussed with CTP, HUDA and the opinion has been given that the Sector/unit is defined in the master plan of the Urban Estate has been approved and circulated by Town & Country Planning Department and HUDA is bound to the sector plan of the master plan Sector-20. (Part-I) and (Part-II) are to be treated as a single sector as per master plan. Therefore, the enhancement calculation has been made by treating and merging Part-I and Part-II Sector-20 in a single unit and calculation has been made in a combined manner. Accordingly, recovery rate of additional price (3rd EC) has been worked out @ Rs.1903.26 per sq. mtrs. Instead of Rs.1315.06 per sq. mtrs for General category and which enhancement are very available in HSVP website link [www.huda.org.in/ layouts/CCF/Recovery of Additional price 3rdEC development of sector 20 Panchkula.pdf](http://www.huda.org.in/layouts/CCF/Recovery%20of%20Additional%20price%203rd%20EC%20development%20of%20sector%20Panchkula.pdf)

Conclusion :-

The main issues raised by the petitioner in Annexure P-10, P-12, P-14 and P-15 are:-

- (i) That Speaking order No. 6/2015 is not applicable to their society.
- (ii) That 20% rebate on enhancements may also be given to the Society.

In this regard it is clarified that the additional price was determined under Regulation 2(i) of The Haryana Urban Development (disposal of Land & Building) Regulation, 1978. Such additional price was applicable for the full sector i.e for all the Group Housing Societies in sector-20, panchkula. Therefore the revised additional price worked out in speaking Order No. 6/2015 is also applicable to the petitioner Society i.e. The Goodwill Haryana Accounts Employees cooperative Group Housing Society No. 14,

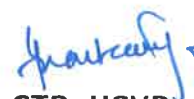
Sector-20, Panchkula. Secondly, as per the terms of agreement, petitioner society was to be deposited 25% of the tentative cost of the land as initial deposit and further agrees to pay the remaining 75% of the tentative cost in 5 equal annual installments alongwith interest @ 15% p.a. on the balance amount. Any further enhancement in the cost of land awarded by the competent authority under the Land Acquisition Act shall be payable proportionately as determined by the authority from time to time. However, if the organization completes the construction within three years of the date of offer of possession, 20% rebate on tentative price of land would be given and would be adjusted towards the future installments. As per Section 2(i) of the Haryana Urban Development (Disposal of Land and Building) Regulations, 1978 " Tentative Price" or "Tentative Premium" means such Price/Premium as may be determined by the authority in terms of Regulations 4 for disposal by allotment in which the cost of land included is the basis on the compensation awarded by the collector under the Land Acquisition Act, but does not include any enhancement that may be awarded by the court on reference made under section 18 of the Land Acquisition Act, 1894. Therefore as such 20% rebate is admissible only on the tentative cost of the land which was initially deposited at the time of allotment.

In view of the above submissions, the Calculations of additional price of Sector-20, Panchkula have been made reviewed and found as per the above said HSVP policy (Supra). Therefore, it is of the view that the demand notices issued by the Estate Officer, HSVP, Panchkula are strictly in accordance with the terms and conditions of the allotment letter and policies of HSVP. Accordingly, the representation is disposed off and no relief is granted to the petitioner.

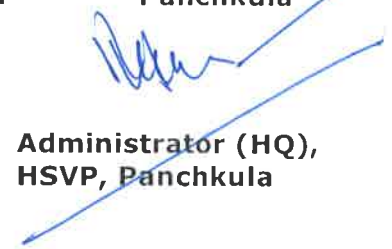
Hence the orders of Hon'ble Punjab and Haryana High Court dated 29.01.2018 is complied with.


LAO,
Panchkula


DTP,
Panchkula


CTP, HSVP,
Panchkula


CCF, HSVP
Panchkula


Administrator (HQ),
HSVP, Panchkula