

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.547 of 2025

Date of Decision: September 15,2025

M/s Inspire Parking Nest Pvt. Ltd., Office address at Adani House, Plot No. 83, Sector-32, Institutional Area, Gurugram, through its authorized representative: Sh. Satyendra Nath Tiwari, S/o Sh. Amar Nath Tiwari, aged about 45 years, r/o 25, First Floor, Street No. K-5.1, Vatika India Next, Sector 83, Shikohpur, Gurgaon

Appellant.

Versus

1. Haryana Real Estate Regulatory Authority, Gurugram, New PWD Rest House, Civil Lines, Gurugram, Haryana through its Secretary.

2. Chairperson, Haryana Real Estate Regulatory Authority, Gurugram

Respondents

CORAM:

**Justice Rajan Gupta
Rakesh Manocha**

**Chairman
Member (Technical)**

Present : Mr.Amit Jhanji, Senior Advocate assisted by
Mr. Himanshu Arora, Advocate for the appellant.

Mr. Puneet Bali, Senior Advocate assisted by
Mr. Dhruv Lamba, Advocate
Ms. Poornima Rao, ALE
for the respondents.

ORDER:

RAJAN GUPTA, CHAIRMAN:

Challenge in the present appeal is to order dated 30.06.2025 passed by Chairman of the Authority¹, vide which, application of the appellant for registration dated 08.04.2025

¹ Haryana Real Estate Regulatory Authority, Gurugram

based on a Concessionaire Agreement with HSVP² has been rejected.

2. The grievance raised by the appellant is that the impugned order has been passed only by the Chairman who did not constitute requisite quorum and thus the order is without jurisdiction. The next grievance of the appellant is that statutory provisions of the Act³ have been ignored while passing the impugned order, inasmuch as, definition of 'allottee', as specified in Section 2(d) of the Act includes transfer on lease hold basis. The appellant has made reference to the provisions of Section 2(d), 2(zk) and 2(zn) which define terms 'allottee', 'promoter' and 'real estate project', requirements of which are fully satisfied by the appellant and, therefore, the impugned order is illegal, warranting interference by the Tribunal.

3. Respondents No. 1 and 2 have filed reply. It has been admitted that the appellant applied for registration of the project on 08.04.2025. The respondents have relied upon the scope of the Act as well as the Regulations⁴ to contend that a conjoint reading of Sections 29, 30, 34 and the Regulations mandate expeditious disposal of the matters pending before it and in a situation where one of its Members being on leave and the second Member having recused from the case, the Chairman was competent to decide the application which is permissible under law. It may be noticed that Mr. Ashok Sangwan, one of the Members of the Authority had expressed

² Haryana Sehri Vikas Pradhikaran

³ The Real Estate (Regulation and Development) Act, 2016

⁴ Haryana Real Estate Regulatory Authority (General) Regulations, 2018

his inability to participate in the meeting vide his letter dated 23.06.2025 and the other Member-Mr. V. K. Goyal was on sanctioned leave upto 11.07.2025. The impugned order of rejection was passed on 30.06.2025.

Analysis

4. On the question of jurisdiction raised by the appellant that only the Chairman of the Authority passed the impugned order, in the given circumstances though he had no jurisdiction to decide the application sitting alone.

5. The Authority is comprised of a Chairman and two Members. One Member was on sanctioned leave from 24.06.2025 to 11.07.2025. The application for registration was filed on 08.04.2025 on which notice was issued by the Authority on 07.05.2025. First reply was filed on 08.05.2025. The case was thereupon adjourned to 12.05.2025. Second reply was submitted on 12.06.2025 and second hearing took place on 16.06.2025. Third hearing was held on 23.06.2025 and final hearing took place on 30.06.2025 when impugned order was passed. On the date when the impugned order came to be passed, one Member, being on leave, the other Member sent a note expressing his inability to participate in the registration process. However, he clearly mentioned therein that if in any specific matter, his opinion was deemed necessary, file may be referred to him which would be promptly dealt with.

6. A perusal of documents mark 'A1' and mark 'A2' which were sealed on the date of hearing before this Bench and retained in the custody of the Registrar shows that had the meeting of the Authority been held on any other convenient

date, same could have been with proper quorum. Even note written by Member-Mr. Ashok Sangwan shows that the same is not recusal. It appears to be an inability to participate in the registration process on 23.06.2025, however, not showing disinclination to express opinion on any specific matter referred to him; with further assurance that such file would be dealt with promptly. The said note bears endorsement dated 23.06.2025 of the Chairman that guidance of Mr. Ashok Sangwan would be sought as and when required. Thus, it appears that matter has been decided post-haste. In case, the meeting had been held on another date convenient to the Members, the matter could have been deliberated upon and decided by majority vote as per mandate of Section 29 of the Act. In such eventuality, decision would not have been open to challenge on the ground that the meeting dated 30.06.2025 lacked quorum. Besides, all data submitted by the Planning Branch, Secretary of the Authority and opinion of the Advocate General could have been considered therein. The decision taken by the Chairman sitting singly, in the absence of quorum, is unsustainable and needs to be set aside.

7. It would be apt to reproduce relevant paras of the judgment of Hon'ble Supreme Court in **M/s Newtech Promoters and Developers Pvt. Ltd. V. State of UP**⁵. The same read as under:

“27. Section 32 refers to functions of the authority for promotion of real estate sector and Sections 34 to 38 of the Act recognize different nature of powers and functions of the authority regarding compliance of its

⁵ 2022(1) RCR (Civil) 367

regulations cast upon the promoters, allottee or the real estate agents and to appoint one or more persons to make an inquiry into the affairs of any promoter, allottee or the real estate agent and to pass any interim orders, if the promoter, allottee or real estate agent is failing in discharging of its functions under the Act, rules or regulations, and to issue directions from time to time to the promoter, allottee or real estate agents, if considered necessary can impose penalty or interest if failed to carry out its obligations.

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103. Section 21 of the Act relates to the composition of the authority which consists of a Chairperson and not less than two whole time members to be appointed by the appropriate Government but conspicuously it does not mention minimum bench strength at the same time consciously prescribes minimum bench/quorum while constituting the Real Estate Appellate Tribunal as reflected under Section 43(3) of the Act.

104. The emphasis of the appellants was on Section 29 of the Act which indicates the quorum of meetings of the authority. There is a specific provision that there shall be a meeting of the authority with the minimum quorum being prescribed, such business of the meeting of the authority indeed could not be delegated to a single member of the authority in exercise of power under Section 81 of the Act.

105. The term meeting under Section 29 of the Act does not deal with the performance of the authority in quasi-judicial matters which are referred to under Section 31 of the Act. It only refers to meetings, policy/regulatory issues that the authority is mandated to discharge under the Act. It may be noticed that Sections 32 and 33 are in the nature of policy/regulatory directions which the authority is mandated to be discharged indisputably have to be undertaken by the authority

while functioning as a whole body under Section 29 of the Act.

106. To add it further, Section 29(3) and (4) of the Act talks about the questions before the authority which are to be disposed of within 60 days on receiving the applications. It may be noticed that there is no reference to any complaint referred to under Section 31 of the Act. To buttress it further, Section 29 and Section 81 of the Act are not in derogation to each other. To the contrary, both operate in different fields. Section 29 deals with the meetings of the authority to be held for taking policy/regulatory decisions in the interest of the stake holders and does not envisage in its fold quasi judicial functions which the Act casts upon the authority. The legislative intention as reflected from Section 29 is a recognition of the rationale that policy matters ought to be considered and decided by the entire strength of the authority so that the policy decisions reflect the acquired experience of the members and Chairman of the authority.”

8. The powers exercised by the Authority under Section 34(a) of the Act are quasi-judicial in nature. It is settled law that whenever an appeal is provided against an order, the determination becomes quasi-judicial in nature. One of the attributes of a quasi-judicial body is that it must render a binding decision and if its decision is merely advisory, deliberative, investigatory or conciliatory in character, which has to be confirmed by another authority before it becomes binding, then such a body is administrative in character, as has been observed by Hon'ble Supreme Court in **Union of India v. Mohan Lal Capoor**⁶.

9. It is the prime obligation of the Authority to act fairly. The facts of this case show that the Chairman proceeded to decide the application of the appellant in a situation when one of the Members was

⁶ AIR 1974 SC 87.

not able to participate and other was on leave till 11.07.2025 which appears to have been sanctioned by the Chairman himself. The meeting could have been easily postponed to enable the Member(s) to participate and take a decision by majority of votes as per Section 29(3) of the Act. Recourse to such procedure can be taken despite the requirement of expeditious disposal as provided in the Act which, in peculiar circumstances of a case, may be considered directory in nature, of course, believing that reasons for delay would be reflected in the order.

10. In the peculiar facts of the case, this Tribunal is of the considered view that the order passed by the Chairman without waiting for the Members, one of whom was on leave and the other who was not able to participate on 23.06.2025, has caused prejudice to the appellant. The observations of Hon'ble Supreme Court, as reproduced above, needed to be kept in view while passing the impugned order. The same is, thus, set aside.

11. As this Tribunal has set aside the impugned order on the first issue itself, the second issue raised by the appellant is left open to be decided by the Authority while adhering to the quorum.

12. In view of above, the appeal is allowed. Matter is remitted to the Authority to be decided as per law after thorough scrutiny of the suggestions/observations of the Planning Branch, opinion of Advocate General and other material on record. Decision be taken expeditiously, preferably within six weeks of receipt of this order.

13. Documents mark 'A1 to A3' be re-sealed and forwarded to the Authority. Copies thereof be retained under the custody of the Registrar of this Tribunal.

14. Copy of this order be sent to the parties/their counsel and the Authority.

15. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

September 15,2025
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