HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	**2090 of 2023**
Date of filing:	**19.09.2023**
First date of hearing:	**18.10.2023**
Date of decision:	**28.10.2025**

Indu Bala Bhardwaj

Parth Bhardwaj

Diya Bhardwaj

All resident of H. N. G-2/18, Eldeco Estate One,

Sector -3, Panipat, Haryana ......COMPLAINANTS

Versus

Splendor Landbase

Unit no. 501-511, Splendor Forum, 5th floor,

03,Jasola District Centre, New Delhi- 110025 ......RESPONDENT

CORAM: Dr. Geeta Rathee Singh **Member**

Date of Hearing: 28.10.2025

Present: Adv. Aayush Kuchhal, Ld. Counsel for Complainants through VC

Adv. Shubhnit Hans, Ld. Counsel for Respondent through VC

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ORDER

1. Present Complaint has been filed by complainants under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

Sr. No	Particulars	Details
1.	Name of the project	Splendor Grande, located at Panipat
2.	Name of the promoter	Splendor Landbase
3.	Unit No.	602
4.	Unit Area (Super Area)	1895 sq. ft
5.	Date of provisional allotment letter	14.10.2013
6.	Date of apartment buyer agreement	05.03.2014

7.	Due date of possession	05.03.2018 Clause 11.2 *"That the Developer shall, under normal conditions, complete the construction of Tower in which the Said Unit is located within a period of 42 (forty two months from the start of construction or execution of this Agreement whichever is later beyond which, the Developer shall further be entitled to a grace period of another 6 (Six) months."*
8.	Basic sale price of unit	Rs. 37,90,000/-
9.	Amount paid by the complainants	Rs. 45,83,860/-
10.	Whether occupation certificate received or not.	O.C received on 26.04.2024
11.	Offer of possession	23.05.2024

B. FACTS OF THE COMPLAINT AS STATED BY COMPLAINANTS

3. Facts of the complainant are that complainant, Indu Bala Bhardwaj along with her late husband Shri Rohit Bhardwaj booked an apartment on 01.10.2013 in the respondent's real estate project 'Splendor Grande' located at Panipat by paying Rs. 5,00,000/-. Vide provisional allotment letter 14.10.2013 unit no.602 having approximate area 1895 sq. ft. in Tower A-3 was allotted to complainants. Apartment buyer agreement was

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executed on 05.03.2014. Complainants had paid Rs.45,83,860/- towards basic sale price of Rs. 37,90,000/-

4. As per clause 11.2 of the agreement, it was provided that the construction of the flat was to be completed within a period of forty-two (42) months from commencement of construction or execution of agreement whichever is later with a grace period of six (6) months. Complainants were informed that the construction of the project commenced from 26.05.2013 and thus the project was to be completed by 26.11.2016 and by 26.05. 2017 in case of grace period. Even if the date of completion is counted from the date of execution of Agreement, even then the construction should have been completed by 05.09.2017 and by 05.03.2018 in case of grace period.
5. Respondent has issued various demand letter cum service invoice to the complainants requesting the complainants to remit the requisite amounts time and again. However, respondent never informed the complainant about the development of the project in those letters and reminders.
6. Project is not complete and respondent has not received occupancy certificate under the statutory provisions. Moreover, the club membership charges charged from the complainants for which the foundation of the same is yet to be laid down in the project. The parks and internal roads are partially completed.
7. Complainants sent legal notice dated 09.08.2023 to respondent to handover possession of unit along with delayed possession charges.

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C. RELIEF SOUGHT

i. Direct the respondent to deliver the actual and physical possession of the residential unit no. 602 in tower A-3 admeasuring 1895 sq. ft. in "Splendor Grand" Sector-19, Panipat, Haryana as was duly allotted in favor of the complainant along with all facilities and amenities as agreed between the complainant and the respondent at time of making the allotment, and further direct the respondent to pay interest at 24% per annum on the deposited amount from the date of payments of amounts of the flat till the date of actual physical possession of the flat is handed over to the complainant.

ii. Direct inquiry (forensic audit) in relation to the affairs of the respondent

iii. That further direct respondent to desist from making illegal demands in the nature of charging maintenance charges, holding charges or any other charge that as per se violate the law of the land.

iv. Pass any other orders in the interest of justice.

D. REPLY ON BEHALF OF RESPONDENT

8. Notice was served to the respondent on 22.09.2023 which got successfully delivered on 23.09.2023. The respondent through counsel Mr. Shubhnit Hans filed reply on 04.03.2024 and raised the following objections-

9. Respondent company commenced the construction of the said project, the RERA Act, 2016 was not in existence, therefore, the respondent company could not have contemplated any violations and penalties thereof, as stated in the RERA Act, 2016. The Act penalizes the developers of the project

much more severely than stipulated in the terms and conditions of the allotment of the said plot, signed and submitted by the complainant to the respondent company. Respondent further submitted that the provisions of the RERA Act, 2016 are to be applied prospectively. Therefore, the present complaint is not maintainable and falls outside the purview of the provisions of the RERA Act, 2016. Be that as it may, the RERA Act came into effect in 2016 and cannot be held to be retrospective in nature.

10.It is submitted that the complainant herein is an investor and has accordingly invested in the project of the respondent for the sole reason of investing, earning profits and speculative gains. Therefore, the captioned complaint is liable to be dismissed in limine.

11.It is further stated that the construction of the said project has not reached the stage as envisaged due to various force majeure reasons beyond the control of the respondent.

12.Respondent was faced with certain force majeure events including but not limited to non-availability of raw material due to various stay orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby stopping/regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. It is pertinent to state that the National Green Tribunal in several

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cases related to Punjab and Haryana had stayed mining operations including in O.A No. 171/2013. These orders inter-alia continued till the year 2018.

13. No-Construction notice was issued by the Hon'ble National Green Tribunal for period of several weeks resulting in a cascading effect. That in the year 2017, 2018 and 2019 there was a blanket ban on construction and allied activities during the months of October and November, which caused massive interruption in construction work. There being a shutdown of construction for at least a few months approximately each year. Thus since 2017 the promoter has suffered months of stoppage of construction work till 2019.

14. Central govt. declared demonetization on 08.11.2016 which severely impacted the operations and project execution on the site as the labourers in absence of having bank accounts were only being paid via cash by the sub-contractors of the company and on the declaration of the demonetization, there was a huge chaos which ensued.

15. Respondent in the past vide various communications including letters dated 22.02.2019, 04.10.2019, 15.03.2021, 17.11.2021, 03.01.2022, 24.02.2022, 29.09.2022, 01.11.2022, 21.01.2023 and 17.03.2023, sent to the complainant about the status of the construction of the said project.

16. Completion date of the said project i.e. Phase -1 registered with this Ld. Authority is 31.03.2022 which is further extended up to 31.12.2023 in pursuance of Advisory issued by this Ld. Authority vide Ensdt. No.

HRERA-PKL/ED/2020/3167-73 dated 26.05.2020 extending the period of registration by nine months due to outbreak of COVID 19 natural calamity and subsequent extensions of the registration of the said Project.

17. Project has already been completed and the respondent had applied for grant of occupation certificate on 31.03.2023 which is not received yet. Nevertheless, vide application dated 18.10.2024 respondent submitted that it had received occupation certificate dated 26.04.2024.

18. Respondent had already offered possession for fit out to the complainant vide letter dated 16.01.2024 however it is the complainant who had not come forward to complete the necessary formalities and to take the possession of the unit.

19. Present complaint is barred by limitation and same is not maintainable before the Ld. Authority.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANTS AND RESPONDENT

20. During oral arguments learned counsel for the complainants and respondent have reiterated arguments as mentioned in their written submissions. During hearing proceeding respondent counsel stated that respondent had received occupation certificate dated 26.04.2024 and copy of same has been filed in the Authority on 18.10.2024.

F. ISSUE FOR ADJUDICATION

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21. Whether the complainant is entitled for physical possession of plot along with interest @24% p.a. on account of delay of physical possession of the plot in question.

G. FINDINGS ON THE OBJECTIONS RAISED BY THE RESPONDENT

G.a) Objection raised by respondent that construction of project commenced before the existence of RERA Act, 2016 and RERA Act, 2016 are to be applied prospectively therefore, the respondent company could not have contemplated any violations and penalties thereof, as stated in the RERA Act, 2016.

Respondent in its reply has averred that construction of project commenced before the existence of RERA Act, 2016 therefore, respondent company could not have contemplated any violations and penalties as stated in the RERA Act, 2016. In this regard Authority observe that RERA Act came into force in the year 2016, however, respondent received occupation certificate on 26.04.2024 i.e. subsequent to commencement of RERA Act, 2016, meaning thereby that at the time of commencement of RERA Act, 2016 the project was an "on going project" thus all provisions of RERA Act,2016 applied to the project of the respondent. Respondent in its reply has also averred that provisions of RERA Act, 2016 are to be applied prospectively. In present case the agreement for sale was executed prior to

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coming into force of RERA Act, 2016.Therefore, present complaint is not maintainable. In this regard, Authority relies upon judgment of 113 of 2018 titled as **Madhu Sareen v/s BPTP Ltd decided on 16.07.2018**. Relevant part of the order is being reproduced below: -

> *The RERA Act nowhere provides, nor can it be so construed. that all previous agreements will be re-written after coming into force of RERA. Therefore, the provisions of the Act, the Rules and the Agreements have to be interpreted harmoniously. However, if the Act or the Rules provides for dealing with certain specific situation in a particular manner, then that situation will be dealt with in accordance with the Act and the Rules after the date of coming into force of the Act and the Rules. However, before the date of coming into force of the Act and the Rules, the provisions of the agreement shall remain applicable. Numerous provisions of the Act saves the provisions of the agreements made between the buyers and seller*

Further, reference can be made to the case titled **M/s Newtech Promoters & Developers Pvt. Ltd. vs. State of UP &Ors. Etc.** 2022(1) R.C.R. (Civil) 357,wherein the Hon'ble Apex Court has held as under:-

> *"41. The clear and unambiguous language of the statute is retroactive in operation and by applying purposive interpretation rule of statutory construction, only one result is possible, i.e., the legislature consciously enacted a retroactive statute to ensure sale of plot, apartment or building, real estate project is done in an efficient and transparent manner so that the interest of consumers in the real estate sector is protected by all means and Sections 13. 18(1) and 19(4) are all beneficial provisions for al safeguarding the pecuniary interest of consumers/allottees.In the given circumstances, if the Act is held prospective then the*

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adjudicatory, mechanism under Section 31 would not be available to any of the allottee for an ongoing project. Thus, it negates the contention of the promoters regarding the contractual terms having an overriding effect over the retrospective applicability of the Act, even on facts of this case."

As per the aforesaid ratio of law, the provisions of the Act are retroactive in nature and are applicable to an act or transaction in the process of completion. Thus, the rule of retroactivity will make the provisions of the Act and the rules applicable to the acts or transactions, which were in the process of the completion though the agreement might have taken place before the Act and the Rules became applicable. Hence, it cannot be stated that the provisions of the Act and Rules made thereunder will only be prospective in nature.

G. b) Objection raised by respondent stating that complainants herein are investors and have invested in the project of the respondent company for the sole reason of investing, earning profits and speculative gains.

Respondent has also averred that complainants are investors and have invested in the project of the respondent company for the sole reason of investing, earning profits and speculative gains. Upon careful perusal of all the terms and conditions of the flat's agreement, it is revealed that the complainants are buyers and paid total price of Rs 45,83,860/- to the promoter towards purchase of an unit in the project

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of the promoter, At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

> *"2[d) "allottee" in relation to a real estate project means the person to whom o plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include q person to whom such plot, apartment or building, as the case may be, is given on rent:*

In view of above-mentioned definition of "allottee" as well as all the terms and conditions of the unit application for allotment, it is crystal clear that the complainant is allottee as the subject unit was allotted to him by the promoter. The concept of investor is not defined or referred in the Act. As per the definition provided under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of "investor". The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. ***0006000000010557 titled as M/s Srushti Sangam Developers PvL Ltd, Vs. Sarvapriya Leasing (P) Lts. And Anr.*** has also held that the concept of investor is not defined or referred in the Act. Thus, the contention of promoter that the allottee being investor is not entitled to protection of this Act also stands rejected.

G. c) Objection raised by respondent that the present complaint is barred by limitation

Respondent had raised objection regarding maintainability of the complaint on ground of that complaint is barred by limitation. In this regard the Hon'ble Apex Court in Civil Appeal no. 4367 of 2004 ***titled as M.P Steel Corporation v/s Commissioner of Central Excise*** has held that the Limitation Act applies only to courts and not to the tribunals. Relevant para is reproduced herein:

> *19. It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963."*

Authority observes that the Real Estate Regulation and Development Act, 2016 is a special enactment with particular aim and object covering certain issues and violations relating to housing sector. Provisions of the Limitation Act 1963, thus, would not be applicable to the proceedings under the Real Estate Regulation and Development Act, 2016 as the Authority established under the Act is a quasi-judicial body and not Court. Therefore, in view of above objection of respondent with respect to the fact that complaint is barred by limitation is rejected.

H. OBSERVATIONS AND DECISION OF THE AUTHORITY

22. The Authority has gone through the rival contentions. In light of the background of the matter as raptured in this order and also the arguments submitted by both parties, Authority observes that there is no dispute with

regards to the fact that complainant i.e. Indu Bala Bhardwaj along with her late husband Mr. Rohit Bhardwaj had booked an unit on 01.10.2013 in respondent's real estate project namely 'Splendor Grande' located at Panipat; unit no. 602 having approximate area of 1895 sq. ft. in tower A-3 was allotted to them vide provisional allotment letter dated 14.10.2013; apartment buyer agreement was executed between complainant Indu Bala, her late husband Rohit Bhardwaj and respondent on 05.03.2014. Complainants had paid Rs. 45,83,860/- towards basic sale price of Rs. 37,90,000/-

23. Complainants in their complaint have alleged that possession should have been offered by 05.03.2018 however, respondent failed to handover possession within stipulated time. Whereas respondent in its reply has averred that possession was subject to force majeure conditions and due to force majeure conditions including covid-19 construction of unit could not completed within stipulated time. Respondent has taken a defence that due to various stay orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby stopping/regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. construction activities and development of unit was delayed.

24. Perusal of clause 11.2 of the agreement for sale reveals that construction of unit was to be completed within 48 month (including 6months of grace period) from commencement of construction or execution of agreement whichever is later. In present complaint no document has been placed on record which can show when did construction of unit commence. Therefore, 48 months is taken from execution of apartment buyer agreement. Hence, deemed date of possession comes out to be 05.03.2018.

25. With regard to respondent's defence of Covid-19 Authority observes that as per above para respondent was obligated to handover the possession of unit by 05.03.2018, whereas Covid-19 outbreak hit construction activities post 22.03.2020 i.e. more than two years after the lapse of due date of possession. Possession of the unit had already been delayed for a long period of time even before the Covid-19 halted construction. Respondent had failed to construct the project on time and deliver possession to the complainants. Therefore, as far as delay in delivery of possession of the unit in question is concerned, respondent cannot be allowed to claim benefit of Covid-19 outbreak as a force majeure condition. Further, reliance is also placed on judgement passed by Hon'ble Delhi High Court in case titled as "***M/s Halliburton Offshore Services Inc. vs Vedanta Ltd & Anr. bearing OMP (1) (Comm.) No. 88/2020 and I.A.S 3696-3697/2020***" dated 29.05.2020, wherein Hon'ble High Court has observed that:

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> "69. *The past non-performance of the contractor cannot be condoned due to Covid-19 lockdown in March,2020 in India. The contractor was in breach since September, 2019. Opportunities were given to the contractor to cure the same repeatedly. Despite the same, the contractor could not complete the project. The outbreak of pandemic cannot be used as an excuse for non-performance of a contract for which the deadline was much before the outbreak itself.*
>
> *The respondent was liable to complete the construction of the project and the possession of the said unit was to be handed over by September,2019 and is claiming the benefit of lockdown which came into effect on 23.03.2020, whereas the due date of handing over possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, Authority is of view that outbreak of pandemic cannot be used an excuse for non-performance of contract for which deadline was much before the outbreak itself.*"

In view of the observations made by Hon'ble Delhi High Court this defence of respondent is non sustainable. It is pertinent to highlight here that respondent has already been allowed a grace period of 6 months as per clause 11.2 of apartment buyer agreement. Therefore, no occasion is made out for grant of any further grace period over and above the already considered grace period of 6 months. Hence, possession should have been offered latest by 05.03.2018.

26. With regard to respondent's defence that due to various stay orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal construction activities and development of unit was delayed. Authority

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observes that there is no document placed on record by respondent to show/prove how these orders hinders the construction of their project.

27. Complainants alleged that valid possession has not been offered to complainant within stipulated time and respondent had not received occupation certificate from competent Authority. Intimation for measurement followed by possession for fit out was issued on 16.01.2024. Vide application dated 18.10.2024 respondent submitted copy of occupation certificate dated 26.04.2024 and copy of offer of possession letter dated 23.05.2024 along with summary of unit account details in the Authority. Perusal of this occupation certificate reveals that respondent had received occupation certificate for the 'Tower A3' in which unit/apartment of complainant is located. Offer of possession letter dated 23.05.2024 was subsequent to occupation certificate. Thus, possession offered to complainant on 23.05.2024 was a legal valid offer of possession.

27. As valid possession has already been offered to complainants therefore complainants are only entitle to delay interest from deemed date of possession i.e. 05.03.2018. till date of valid offer of possession i.e. 23.05.2024. The definition of term 'interest is defined under Section 2 (za) of the Act which is as under:

> *(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
> *Explanatian.-For the purpose of this clause-*

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(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15: Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%: Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public"

28. As per statement of account dated 24.07.2023 and receipts complainant had paid an amount of Rs. 45,83,860/- as total sale consideration. As per website of the State Bank of India i.e., https://sbi.co.in, the highest marginal cost of lending rate (in short MCLR) as on date i.e 28.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e.10.85 %. which is to be calculated from the deemed date of possession till actual handing over of possession (i.e. from 05.03.2018to 23.05.2024)

29. As per calculations made by accounts branch, amount payable by respondent to the complainant on account of interest for delay in handover of possession of the unit has been worked out to Rs.28,94,313/- as per table below. Hence, the respondent is directed to pay the complainant amount of Rs. 28,94,313/- as delay interest for the period 05.03.2018 to 23.05.2024 within 90 days of uploading of this order on the website of the Authority.

Sr.no	**Principal amount**	**Due date of possession or date of payment whichever is later**	**Interest accrued till 23.05.2024**
1.	3962646	05.03.2018	2676273
2.	304240	01.11.2019	150670
3.	316974	09.06.2022	67370
	Total Principle amount = Rs. 45,83,860/-		Interest=28,94,313/-

30. Complainant is also praying that the respondent be directed to desist it from making demands on account of maintenance and holding charges.

31. With regard to maintenance charges Authority observes that as per clause 12.2 of apartment buyer agreement complainant itself agreed to pay maintenance charges to respondent. Relevant para of agreement reproduced herein:

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"The Developer or its nominated agency shall be authorized to issue bills towards maintenance charges. All costs, expenses, charges etc. shall be paid by the Allottee to the extent of his share in the Said Tower/Said Group Housing Colony within seven days of receipt of bills in that respect."

It is also matter of fact that valid possession has already been offered vide letter dated 23.05.2024. Therefore, complainants are obligated to pay maintenance charges as demanded by respondent with effect from 23.05.2024.

32. With regard to holding charges it is observed that the respondent having received the sale consideration has nothing to lose by holding possession of the allotted flat except that it would be required to maintain the apartment. In present complaint since complainants are liable to pay maintenance charges therefore, holding charges will not be payable to the respondent.

33. As for relied at clause. C (ii) of this order it is neither a part of the pleadings nor has it been argued. Therefore, no observation is made on this relief.

I. DIRECTIONS OF THE AUTHORITY

34. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

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i. Respondent is directed to pay complainant amount of Rs. 28,94,313/- as delay interest from the period 05.03.2018 to 23.05.2024.

ii. A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.

iii. Complaints will pay maintenance charges as per observation made in para 31 of this order.

iv. Respondent shall not charge anything from complainants that is not part of apartment buyer agreement date 05.03.2014.

35. Captioned complaint is accordingly **Disposed of.** File be consigned to record room after uploading of the order on the website of the Authority.

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DR. GEETA RATHEE SINGH
[MEMBER]