

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Appeal No.436 of 2024**  
**Date of Decision: December 05,2025**

M/s GCC Infra, P 901-905, 9<sup>th</sup> Floor, C Wing, JMD Megapolis, Sector 48, Gurgaon, Haryana-122018

...Appellant  
**Versus**

Haryana Real Estate Regulatory Authority, Gurugram, New PWD Rest House, Civil Lines, Gurugram, Haryana

...Respondent

**CORAM:**

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|-----------------------------|---------------------------|
| <b>Justice Rajan Gupta</b>  | <b>Chairman</b>           |
| <b>Dr. Virender Parshad</b> | <b>Member (Judicial)</b>  |
| <b>Dinesh Singh Chauhan</b> | <b>Member (Technical)</b> |

**Present:** Mr. Mukul Gupta, Advocate for the appellant.

Mr. Siddhant Arora, Advocate for the respondent.

**O R D E R:**

**JUSTICE RAJAN GUPTA, CHAIRMAN**

Present appeal is directed against order dated 03.04.2024, passed by the Secretary to Authority at Gurugram<sup>1</sup>. Operative part thereof reads as under:

*“4. On account of non-compliance of the conditions mentioned in the registration certificate, the show cause notice dated 21.08.2023 as to why the registration certificate shall not be revoked, and penal proceedings be not initiated against the promoter and various opportunities of hearing were provided to the promoter.*

*5. The Authority, in its meeting dated 01.01.2024 decided that compliances by the promoter must be made without fail within the timeline of conditional registration failing which the BG/security be forfeited.*

*6. In the hearing dated 22.03.2024, none appeared on behalf of the promoter. In view of the fact that the promoter has failed to submit the approval of service*

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<sup>1</sup>The Real Estate Regulatory Authority, Gurugram

*plans and estimates within the specified timeline of three months as per conditions of the registration certificate no. 674/406/2023/18 dated 23.01.2023, the security deposited by the promoter in lieu of the timely submission of the above approval is hereby forfeited.”*

2. Learned counsel for the appellant has assailed the impugned order on several grounds, primarily contending that forfeiture of the security amount of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) by the Secretary is arbitrary and unsustainable in law. As per him, there was no wilful default or deliberate non-compliance on the part of the appellant/promoter. Forfeiture of security has been done due to minor delay in submitting necessary approvals before the Authority. He further contends that before passing the impugned order, no notice was issued to the appellant, thus, denying any opportunity of hearing to the promoter.

3. It is further contended that the action of forfeiture is disproportionate to the alleged default. The impugned order is cryptic, devoid of reasoning, and passed by an officer (i.e., the Secretary to the Authority) who, as per the appellant, is not vested with quasi-judicial powers under the Act. Therefore, the impugned order is *non est* in the eyes of law and liable to be set aside.

4. Reply has been filed on behalf of the Authority. It has been stated therein that *suo motocomplaint* No. 2896 of 2023 was initiated against the appellant and show cause notice dated 21.08.2023 was issued to it for non-compliance of conditions incorporated in the registration certificate. After giving opportunity of hearing to the appellant, the impugned order was passed. In compliance of the decision/proceedings of the Authority dated 22.03.2024, the impugned order was issued by the Secretary on behalf of the Authority.

5. We have heard learned counsel for the parties and given careful thought to the facts of the case.

6. The question which arises before this Tribunal for adjudication is, whether the Secretary was justified in ordering forfeiture of the amount and whether he was vested with any power to pass an order of this nature.

7. After perusal of record, it has been noticed that the impugned order has been passed by the Secretary of the Authority. There is nothing on record to show that the Secretary has been vested with powers to pass orders of the nature impugned in the instant case.

8. The Authority in its reply has tried to justify the impugned order by giving certain reasons and also to make an effort to explain the order passed by it by stating that matter was deliberated upon by Members of the Authority and only thereafter the Secretary passed the order. This stand is wholly unacceptable as judicial, for that matter, quasi-judicial powers cannot be delegated to the Secretary. Perusal of the observations made in ***M/s Newtech Promoters and Developers Pvt. Ltd. V. State of UP***<sup>2</sup> shows that the Act<sup>3</sup> does not contemplate delegation of any judicial powers to any other official except a member of the Authority or the Adjudicating Officer, as the case may be. Otherwise also, delegation of judicial power is not in consonance with any law or the jurisprudence on the subject. Needless to observe that all these functions ought to be performed by the Authority with which this power is vested. It is, thus, inexplicable how quasi-judicial powers were exercised by the Secretary of the Authority.

8 (A). In ***Brijmani Devi v. Pappu Kumar***<sup>4</sup>, Hon'ble Supreme Court, after reiterating the principles laid down in ***Kranti Associates***

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<sup>2</sup>2022(1) RCR (Civil) 367

<sup>3</sup>The Real Estate (Regulation and Development) Act, 2016

<sup>4</sup>(2022) 4 SCC 497

**Pvt. Ltd. V. Masood Ahmed Khan and others**<sup>5</sup>, held that a quasi-judicial authority must engage in a thorough examination of the issues and provide a reasoned decision. This is crucial for maintaining the integrity of the adjudicatory process.

9. Apart from above, it is clear that the order passed by the Secretary is wholly cryptic and bereft of detailed reasons. Any attempt to justify a cryptic order passed by an official in whom neither any power is vested nor can be delegated under the special enactment has to be rejected.

10. In **Assistant General Manager State Bank of India and another v. Tanya Energy Enterprises through its Managing Partner Shri Alluri Lakshmi Narasimha Varma**<sup>6</sup>, Hon'ble Supreme Court held that validity of an order, which is under challenge in the proceedings, must be tested on the basis of ground(s) mentioned in it in support thereof; and any additional ground, to support the order under challenge, cannot be allowed to be raised in the reply affidavit or in course of arguments. Relevant paragraph thereof is extracted below for ready reference:

*“35. To refresh our memory, the aforesaid decisions are authorities for the proposition that validity of an order, which is under challenge in the proceedings, must be tested on the basis of the ground(s) mentioned in it in support thereof; and any additional ground, to support the order under challenge, cannot be allowed to be raised in the reply affidavit or in course of arguments. The underlying principle is that an order which is bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out....”*

11. The justification for forfeiture of bank guarantee would vary in each case. In case facts and circumstances of a given case demand

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<sup>5</sup>(2010) 9 SCC 496

<sup>6</sup>Civil Appeal No. 11134 of 2025, decided on 15.09.2025

that such extreme measure must be taken, it would necessarily require opportunity of hearing to the affected party. It is well-settled that principles of natural justice are to be read into every statute. Needless to say, such opportunity has to be granted by a duly empowered forum. Such orders cannot be passed by any official of a quasi-judicial body in a casual manner. All facts and circumstances of the case and reasons for forfeiture must be contained in the order itself. The practice of explaining the grounds for forfeiture in the affidavit is legally unsustainable [See..***Assistant General Manager State Bank of India and another's case (supra)***].

12. In view of the observations made above, this Bench deems it fit to remit the matter to the Authority to consider the matter afresh after opportunity of hearing to the parties. It shall pass a fresh order at the earliest, in any case, not later than three months after such opportunity and perusal of the entire record.

13. Appeal is allowed in the aforesaid terms.

14. Parties are directed to appear before the Authority on 05.01.2026.

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

16. File be consigned to records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad  
Member (Judicial)

Dinesh Singh Chauhan  
Member (Technical)

December 05,2025/mk