

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.156 of 2025

Date of Decision: February 09, 2026

M/s Keywest Eduinfra & Services Pvt. Ltd., 10th Floor, Tower D, Global Business Park, MG Road, Gurugram-122002 through its authorised representative Mr. Munish Kumar Garg

...Appellant

Versus

Haryana Real Estate Regulatory Authority, Gurugram, PWD Rest House, Civil Lines, Gurugram-122001

...Respondent

CORAM:

**Justice Rajan Gupta
Dr. Virender Parshad
Dinesh Singh Chauhan**

**Chairman
Member (Judicial)
Member (Technical)**

Present: Mr. Munish Kumar Garg, Advocate for the appellant.

Mr. Sidhant Arora, Advocate for the respondent.

ORDER:

JUSTICE RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 03.04.2024, passed by the Secretary to Authority at Gurugram¹. 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

¹ The Real Estate Regulatory Authority, Gurugram

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 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 penalty has been imposed on the promoter on the ground that it could not submit environmental clearance certificate in time. This was for the reason that Code of Conduct was imposed in view of Haryana State Assembly Elections, 2024 due to which the appellant was unable to obtain the final approval letter within the prescribed time.

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 moto* complaint 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 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. Perusal of the observations made in ***M/s Newtech Promoters and Developers Pvt. Ltd. V. State of UP***² shows that the Act³ 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 in which this power is vested. It is, thus, inexplicable how quasi-judicial powers were exercised by the Secretary of the Authority.

8. In its reply, the Authority has stated that short order in the instant case was passed by a Member of the Authority. The Tribunal is constrained to observe that if short order dated 12.12.2024 was indeed passed by the Authority, then it was incumbent upon the Authority itself to pass detailed order thereafter. The record does not disclose any

² 2022(1) RCR (Civil) 367

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

justification as to what prevented the Authority from passing the detailed order and why the same was passed by the Secretary instead, who lacked competence to do so under law. Such a course, renders the impugned order unsustainable.

9. In ***Brijmani Devi v. Pappu Kumar***⁴, Hon'ble Supreme Court, after reiterating the principles laid down in ***Kranti Associates Pvt. Ltd. V. Masood Ahmed Khan and others***⁵, 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.

10. Apart from above, it is clear that the order passed by the Authority is wholly cryptic and bereft of reasons. Any attempt to justify non-speaking and cryptic order by an affidavit filed during course of appellate proceedings has to be rejected. In **Assistant General Manager State Bank of India and another v. Tanya Energy Enterprises through its Managing Partner Shri Alluri Lakshmi Narasimha Varma**⁶, 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

⁴ (2022) 4 SCC 497

⁵ (2010) 9 SCC 496

⁶ Civil Appeal No. 11134 of 2025, decided on 15.09.2025

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. A perusal of the Objects and Reasons of the Act shows that the Authority has been established for regulation and promotion of the real estate sector to ensure sale of plot, apartments or buildings in an efficient and transparent manner, to protect the interest of consumers and to establish adjudicatory mechanism for dispute redressal. In case, the project is completed without unnecessary impediments, its timely completion would benefit to consumers as well. Thus, a fine balance has to be struck to achieve the objectives.

12. The justification for forfeiture would vary on case-to-case basis. The decision to forfeit security amount would depend on the nature and extent of default in each case. This practice may not be resorted to where the builder is able to explain the delay in completing the formalities. However, this would necessarily require an opportunity of hearing to be afforded to it before the decision of forfeiture. 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 on his *ipsi dixit*. This casual approach needs to be deprecated. All facts and circumstances of the case and reasons for forfeiture must be contained in the order itself.

13. 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. The Authority shall also be at liberty to

examine whether the project is proceeding as per undertaking(s) given at the time of seeking registration. It may also initiate appropriate action in case any violation comes to its notice.

14. Appeal is allowed in the aforesaid terms.

15. Parties are directed to appear before the Authority on 06.03.2026.

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

17. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

February 09, 2026
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