

**Chapter 4**  
**Urban Development**



## CHAPTER 4

### Urban Development

#### Town and Country Planning Department

#### 4.1 Non-recovery of differential amount of license fee at revised rates

**Due to non-initiation of timely action, the department failed to recover the differential amount of license fee amounting to ₹ 1.94 crore even after a period of more than eight years.**

Town and Country Planning Department (TCPD) grants licences to private colonisers for development of residential, commercial and industrial areas under the provisions of Haryana Development and Regulation of Urban Areas (HDRUA) Act, 1975. As per section 3 of the HDRUA Act, 1975 any person desiring to convert his land into a colony shall, unless exempted under section 9, make an application to the Director, for the grant of license to develop a colony in the prescribed form and pay for it such fee and conversion charges as may be prescribed. The TCPD, Haryana collects the license fee from the colonisers as notified by the Government from time to time. Government of Haryana had revised rates of license fee in August 2013 in place of earlier notified rate of April 2008 to be effective from 1<sup>st</sup> June 2012.

During test check of records (21 June 2021 to 15 July 2021) in the office of the Director, TCPD, Haryana for the period from April 2019 to March 2021, it was observed that the department collected license fee as per pre-revised rates from three private colonisers between September 2012 and March 2013. The detail of test checked cases is given in *Table 4.1*.

**Table 4.1: Detail of test checked cases in which department collected license fee as per pre-revised rates from private colonisers**

(₹ in lakh)

Sr. No.	Name of the licensee/Location	License No. & Date of issue	Area in acres	License fee to be recovered per acre	License fee recovered per acre	Differential amount to be recovered
1.	M/s Harman Property Ltd., Ambala	105 of 2012 11 October 2012	Residential Plotted 51.366	5 per acre (₹ 256.83 lakh)	3.10 per acre (₹ 159.23 lakh)	97.60
			Commercial 1.99	50 per acre (₹ 99.50 lakh)	51 per acre (₹ 101.49 lakh)	(-) 1.99
			<b>Net difference ----(1)</b>			<b>95.61</b>
2.	M/s Taneja Developers and Infrastructure Ltd., Panipat	121 of 2012 13 December 2012	Residential Plotted Colony 25.67	7.50 per acre (₹ 192.53 lakh)	4.30 per acre (₹ 110.38 lakh)	82.15
			Commercial 2.248	110 per acre (₹ 247.28 lakh)	110 per acre (₹ 247.28 lakh)	0
			<b>Net difference ----(2)</b>			<b>82.15</b>
3.	M/s Prime Zone Developer Pvt. Ltd., Assandh	120 of 2012 10 December 2012	Residential Plotted 33.287	1 per acre (₹ 33.29 lakh)	0.51 per acre (₹ 16.98 lakh)	16.31
			Commercial 1.35	10 per acre (₹ 13.50 lakh)	10.10 per acre (₹ 13.64 lakh)	(-)0.14
			<b>Net difference----(3)</b>			<b>16.17</b>
<b>Total (1+2+3)</b>					<b>193.93</b>	

It was further observed that the department did not issue any demand notice to these licensees till the matter was brought to the notice of the department by audit.

On being pointed out in audit, the Director, TCPD intimated during exit conference (April 2022) that the license of M/s Prime Zone Developers Pvt. Ltd. was cancelled (October 2018) as it had not applied for renewal of license and the matter had been taken up with the Government of Maharashtra for recovery of outstanding dues as the licensed land has been attached by the Government of Maharashtra vide notification dated 17 April 2014. The Director further stated that in remaining two cases, efforts were being made for recovering differential amount of license fee.

Thus, due to not taking timely action by the department differential license fee amounting to ₹ 1.94 crore remained unrecovered.

The Department may re-check all the cases of license fees to ensure recovery of difference of license fees at revised rates to avoid loss of revenue to the Government. Responsibility needs to be fixed for non-recovery of license fee at revised rates.

The matter was referred (January 2022) to Additional Chief Secretary, Town and Country Planning Department, Government of Haryana for reply/comments. Reply was awaited (April 2022).

### **Town and Country Planning Department**

#### **4.2 Non-revalidation of bank guarantees caused loss to the State Exchequer of ₹ 9.84 crore**

**Due to not enforcing the provisions of HDRUA Rules, Town and Country Planning Department failed to protect the interests of the State exchequer and extended undue favour to the licensees on account of non-revalidation of bank guarantees resulting into a loss of ₹ 9.84 crore.**

As per provisions of Section 8 (1) of Haryana Development and Regulation of Urban Areas (HDRUA) Act, 1975, a license is liable to be cancelled by the Department if the coloniser contravenes any of the conditions of the license or the provisions of the Act or the Rules made there under; provided that before such cancellation the coloniser shall be given an opportunity of being heard. After the cancellation, as per Section 8 (2) of the Act, the Department may carry development works in the colony and recover the charges incurred on the said development works from the coloniser and the plot-holders.

As per provision of Rule 11 of HDRUA Rules, colonisers were required to furnish bank guarantee equivalent to 25 per cent of the estimated cost of

development works<sup>1</sup>. In the event of breach of any clause of agreement by the colonisers, the Department was entitled to cancel the license granted and the bank guarantee in that event was required to be encashed.

Rule 4.1 of the Punjab Financial Rules (PFR) provides that the departmental controlling officers should see that all sums due to Government are regularly and promptly assessed, realised and duly credited into the treasury.

During test check of records (21 June 2021 to 15 July 2021) in the office of the Director, Town and Country Planning Department (TCPD), Haryana for the period from April 2019 to March 2021, it was seen that the Department was not enforcing the rules and regulations to protect the interests of the State exchequer and was extending undue favour to the licensees. It was observed that three cases of non-revalidation of bank guarantee caused loss to the State exchequer of ₹ 9.84 crore as discussed below:

(i) TCPD, Haryana issued a license 1283 of 2006 (LC 785) in November 2006 for setting up of Group Housing Colony at Village Raipur, Sector 10 and 11 of Sonipat District over an area measuring 13.3125 acres of land. The license was valid upto 28 November 2008. The licensee applied for the renewal of the license on 20 November 2008 which was rejected by the Department due to huge outstanding amount of ₹ 29.74 crore against the licensee. Thereafter, the licensee had not applied for the renewal of the license. The Department cancelled the license in October 2012. The department had the bank guarantees on account of External Development Charges (EDC) and Internal Development Charges (IDC) of ₹ 4.16<sup>2</sup> crore which were valid upto 12 October 2009. However, the Department had not revalidated/revoked the bank guarantees which resulted in the loss of ₹ 4.16 crore to the State exchequer in the instant case. The Department had not initiated any action to recover the pending dues so far except making a request (November 2020) to Deputy Commissioner, Sonipat for handing over of land/building of the license to the Senior Town Planner, Rohtak.

(ii) TCPD, Haryana issued license 65 of 2008 (LC 1589) in March 2008 for setting up of Group Housing Colony at village Dholagarh, Sector 14, Palwal over an area measuring 6.98 acres of land. The license was valid upto 18 March 2010 which was renewed upto 18 March 2012 by the Department. The licensee had violated various provisions of HDRUA Act and Rules made thereunder including non-submission of documents in compliance with Rules 24, 26, 27 and 28 of HDRUA Act, 1975 as well as non-renewal of license after

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<sup>1</sup> Internal and External Development Works.

<sup>2</sup> Bank Guarantees of ₹ 315.98 lakh and ₹ 99.97 lakh on account of External Development Charges and Internal Development Works respectively.

2012. The department, after giving the opportunity of hearing to the licensee to rectify the discrepancies, cancelled the license on 21 August 2018.

The department had bank guarantees amounting to ₹ 2.31<sup>3</sup> crore at the time of cancellation of license with validity upto 27 February 2020. However, the Department had not revalidated/revoked the bank guarantees. This resulted in the loss of ₹ 2.31 crore to the State exchequer in the instant case. The Department requested (August 2018) the Deputy Commissioner, Palwal (DC) to recover the outstanding dues, however no recovery has been made till June 2021.

(iii) Licence 42 of 2008 for setting up a Group Housing Colony over an area measuring 10.25 acres in Sector-95, Gurugram was granted by the department. The license was valid upto 1 March 2010. The coloniser submitted bank guarantees of ₹ 3.37<sup>4</sup> crore with period of validity upto 25 January 2012 against which claims could be lodged upto 25 July 2012 on account of EDC and Infrastructure Development Works (IDW). During scrutiny, it was observed that the department did not initiate the cancellation process timely as the period of validity of the license had expired on 1 March 2010. Due to non-initiation of cancellation process and revocation of bank guarantees the State exchequer suffered a loss of ₹ 3.37 crore.

It was further observed that the coloniser also submitted (March 2013) an undated cheque of ₹ three crore alongwith review petition for renewal of license with the assurance that he will deposit the balance amount of EDC on or before 30 June 2013. The Department did not encash the above mentioned undated cheque though the coloniser did not deposit the balance amount of EDC till the end of June 2013. Further, no action has been taken by the Department to recover the outstanding dues from the coloniser till July 2021. It is pertinent to mention here that chances of recovery of outstanding dues are very bleak as Corporate Insolvency Resolution Process has been initiated (September 2019) against the coloniser at the National Company Law Tribunal.

During exit conference (April 2022) the Director, TCPD stated that in all three cases licenses were cancelled by the department and the process of encashment of bank guarantee was initiated before the expiry of validation period. However, the department could not produce the documents in support of reply except in case of license no. 42 of 2008 wherein the department had instructed the bank in July 2012 to encash the bank guarantee but the bank conveyed its inability due to expiry of validation period of the Bank Guarantee.

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<sup>3</sup> Bank Guarantees of ₹ 182.25 lakh and ₹ 49.21 lakh on account of External Development Charges and Internal Development Works respectively.

<sup>4</sup> Bank Guarantees of ₹ 267.63 lakh and ₹ 69.65 lakh on account of External Development Charges and Internal Development Works respectively.

Thus, due to the lackadaisical approach of the Department to enforce the provisions of HDRUA Rules, the State exchequer has suffered a loss of ₹ 9.84<sup>5</sup> crore.

The matter was referred (19 January 2022) to Additional Chief Secretary, Town and Country Planning Department, Government of Haryana for reply/comments. Reply was awaited (April 2022).

**Revenue and Disaster Management Department, Forest Department, Department of Town and Country Planning, Urban Local Bodies Department, Haryana and the Municipal Corporation of Faridabad (MCF)**

**4.3 Illegal construction of a multi-storey building in notified land and consequent illegal sale of commercial office spaces valuing ₹ 182.46 crore**

**The Municipal Corporation of Faridabad allotted land notified under Punjab Land Preservation Act, 1900 (PLPA) (preserved and protected with prohibitions of non-forestry activities) to a developer who after getting a NOC from the Forest Department constructed a multi-storied building on this land. The building plans were sanctioned by the MCF and also granted Occupation Certificate in contravention of the terms of allotment. Thereafter, registration of illegal Conveyance Deeds were got executed by the Developer from the Sub-Registrar. The total valuation of the building works out to ₹ 182.46 crore.**

Sections 3, 6 & 7 of the Act, 1963<sup>6</sup>, stipulate prohibitions against erection/re-erection of buildings along the scheduled roads and/or within the controlled areas and use of land in the controlled areas. Every person desiring to obtain the permission against these prohibitions shall make an application to the Director<sup>7</sup>, Town and Country Planning, Haryana under Section 8 of the Act, 1963. The prescribed procedure of granting of the said permission under Section 8 i.e. Change of Land Use (CLU) has been dealt with under Part IV-A (Rule 26-A to 26-F) of the Rules, 1965<sup>8</sup>. The applicant has to apply for the CLU in Form CLU-I prescribed under Rule 26-A and the provisions are for a person other than a coloniser. Execution of an agreement

<sup>5</sup> ₹ 9.84 crore = ₹ 4.16 crore + ₹ 2.31 crore + ₹ 3.37 crore.

<sup>6</sup> The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963.

<sup>7</sup> Or to any person appointed by the Govt. by notification to exercise and perform powers and functions of the Director u/s 2 (6) of the Act, 1963.

<sup>8</sup> The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Rules, 1965.

in the Form CLU-II prescribed under Rule 26D of the Rules, 1965 is a condition for approval of the change of land use granted in the Form CLU-III. The Developer also has to give an undertaking in the agreement, to not sell the said land or portion thereof unless the said land had been put to use as permitted by the Director and to use the said land only for the purposes permitted by the Director. The CLU permission including zoning plans granted by Chief Administrator of Faridabad Complex Administration and subsequently by MCF were using these powers, functions and procedures on behalf of Director, Town and Country Planning.

When the developer wants to act as a coloniser, intending to change the existing use of the land in a controlled area for the purpose of setting up a colony by sub-dividing and developing the said land into building plots for residential, industrial, commercial or other purposes, he has to apply under Rule 11 in Form CL-I and comply with the provisions stipulated in Rules 11 to 16 of the Rules, 1965.

Alternatively, the Developer can apply for grant of licence to the Director, Town and Country Planning under Section 3 of the Haryana Development and Regulation of Urban Areas Act, 1975 (the Act, 1975) by following the provisions prescribed in the Rules 3 to 11 of the Haryana Development and Regulation of Urban Areas Rules, 1976 (the Rules, 1976). The Sub-Registrar may allow sale of such sub-divided parts as land after compliance with provisions of Section 7A of the Act, 1975<sup>9</sup> or as constructed area after compliance with the provisions of the Haryana Apartment Ownership Act, 1983 (the Apartment Act, 1983). The developer has to register a Deed of Declaration as specified under Sections 2 and 3 (j) of the Apartment Act, 1983 within 90 days of Completion Certificate/Occupation Certificate as may be applicable for licensed development under the Act of 1975 and/or Act of 1963. Besides, the purchasers of commercial spaces in integrated commercial complexes have proportionate rights over the land on which the integrated complex is built in addition to other areas contained in the common areas under the Apartment Act, 1983 (specified under Sections 2, 3(f) and 4 of the Apartment Act, 1983).

**(i) Approval of CLU and further allotment of MCF land**

During examination of issues (November-December 2021) related to multiple Departments and entities viz Municipal Corporation of Faridabad (MCF),

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<sup>9</sup> Under 7A an NOC is required from the Director for purporting to transfer by way of sale or lease or gift any vacant land having an area of less than 1000 sqm before 3<sup>rd</sup> March 2017 and less than two kanals thereafter; u/s 7(i) transfer of plots in a colony has been prohibited without a license u/s 3 of the Act of 1975.



Forest Department, Department of Town and Country Planning and Department of Stamp and Registration, it was seen that M/s Godavari Shilpkala Pvt. Ltd. (the Developer) had been granted permission/approval for change in land use (CLU) on 12<sup>th</sup> March 1992 by Chief Administrator-cum-Director, Town and Country Planning, Faridabad Complex Administration (FCA)<sup>10</sup>, Faridabad for a land stretch of 5.5 acres (44 kanals) situated in the revenue estate of Lakkarpur<sup>11</sup> village for development and use of the land as 'Recreational, Cultural and Hotel Complex'. The CLU approval was granted under the Act, 1963 using powers and functions of the Director, Town and Country Planning under Section 2 (6) of the Act of 1963. The Developer was granted the CLU approvals after execution of an agreement in the prescribed Form CLU-II (Rule 26D of the Rules, 1965). The land was categorised originally (prior to 12 March 1992) and presently (December 2021) in revenue records as non-cultivable hills (*Gair mumkin pahar*).

The Developer requested (November, 1994) for allotment of a 3.93 acre parcel of land (comprising three pieces of land) abutting the 5.5 acre land (referred to in the preceding paragraph) for the purpose of parking, landscaping and expansion of 5 star hotel. The MCF after approval from the Government<sup>12</sup> of Haryana allotted (May, 1995) the 3.93 acre parcel of land belonging to MCF in the revenue estate of Lakkarpur Village at the rate of ₹ 20 lakh per acre and other applicable charges including External Development Charges (EDC). The Conveyance Deed was executed on 28 August 1995. The last revised Zoning Plan of the complete CLU site of 9.43 (5.5+3.93) acres was issued on 19 November 2006 by the Commissioner, MCF in continuation of previous zoning plans issued on 26 May 1992 and 11 September 1995. There were specific conditions prescribed which were *inter alia* as follows:-

- (a) The CLU site was not to be fragmented/sub-divided under any circumstances as contained in CLU-II agreement, terms and conditions of allotment letter and clauses of applicable zoning plan(s); and
- (b) Building permitted at site shall be used for development of recreational, cultural and hotel complex as per revised zoning plan dated 19 November 2006. The category of this land parcel of 3.93 acre originally was and also is non-cultivable hills (*Gair Mumkin Pahar*) as per revenue records.

<sup>10</sup> Faridabad Complex Administration became a part of MCF in 1994 and consequently functions of Chief Administrator became a part of functions of Commissioner MCF.

<sup>11</sup> Lakkarpur Village falls under controlled area of the Act of 1963 as per notification no. 3826-2TCP-63/35804 of 19 December 1963 issued by the Town and Country Planning Department of Punjab.

<sup>12</sup> Records relating to the approval were not produced to Audit by the Director, ULB as well as PS (ULB).

**(ii) Illegal construction**

The developer planned five building blocks in the 5.5 acre stretch of which four blocks (No. 1 to 4) were interconnected towers and Occupation Certificate<sup>13</sup> was granted by the Commissioner MCF on 14 November 1994. The fifth block was a separate building constructed later. Its part Completion and Permission to Occupy Certificate was granted on 4 July 2008 with ten storeys above the Ground Floor and basements (total 14 storeys) covering 51,609.173 sqms.

The Developer planned another multi-storied building on the land allotted by the MCF (i.e. 3.93 acre) and the proposed building plans were sanctioned (6 November 2007) with validity up to 5 November 2009. The sanctioned tower incorporated nine floors for commercial offices, three floors for halls, two floors for car parking above the Ground Floor reserved for ATM Space and Entrance Lobby with one Basement (total 16 storeys). The said building was completed on the site and Occupation and Completion Certificate was granted by the MCF on 7 April 2011 with 32,975.96 sqm covered area. The details of floor-wise area and rates per square feet for commercial space in the area notified by the Deputy Commissioner Office of Faridabad and corresponding value of the constructed office space is given in **Appendix-7**. The value works out to ₹ 182.46 crore.

The permission for change of land use and allotment approval of additional land did not permit construction and use of constructed area for commercial offices. However, review of records showed that the MCF sanctioned the building plans (reflecting use of building spaces as commercial) in contravention of the approval of CLU and land allotment.

**(iii) Illegal sale**

The Developer was selling office space since December 2011. The MCF became aware of the illegal Conveyance Deeds in December 2020 when an individual sought information from MCF regarding the legality of Conveyance Deeds. The Chief Town Planner (CTP), MCF provided the information only in February 2021. Later, the Commissioner, MCF ordered (24 March 2021) collection of information of Conveyance Deeds from the Tehsildar, Badkhal (Faridabad). As per information received from the Tehsildar, Badkhal, 10 Conveyance Deeds (**Appendix 8**) in the tower at Godavari Shilpkala named 'Pinnacle Business Tower' were registered at the office of Sub-Registrar Badkhal between 6 October 2017 and 21 December 2020. Commissioner, MCF issued Show Cause notice

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<sup>13</sup> Detail of floor area of these blocks was not made available by the MCF.

(25 March 2021) to the developer. The Developer did not respond to the notices. The Commissioner, MCF ordered (8 April 2021) sealing of the premises of the Pinnacle Business Tower as there were contraventions in the use of land, subdivision of land and sale of building violating the provisions of CLU permission, CLU-II agreement under Rule 26D of the Rule, 1965 and the approved zoning plan.

**(iv) Joint physical verification by Audit**

Audit conducted a joint physical verification of the Pinnacle Business Tower on 2 December 2021 with the officials of the MCF and it was found that the Pinnacle Business Tower was not sealed. On detailed floor wise verification, it was found that all the ten sold out units which were made out to be the ground for sealing the premises of the Pinnacle Business Tower by the Commissioner, MCF on 8 April 2021, were open and not sealed. Contrarily eight other units<sup>14</sup> (which were not part of the list) were found sealed with a white tape.

**(v) Irregularities in registration of sale deeds**

Examination of records in the Sub-Registrar offices at Badkhal and Faridabad enabled collection of copies of 40 Conveyance Deeds (*Appendix 9*) pertaining to the Pinnacle Business Tower including 10 deeds already on record of the MCF. The MCF had obtained the Conveyance Deeds from the office of the Sub-Registrar, Badkhal. This office had come into existence in the year 2017 and the deeds executed prior to the year 2017 remained to be obtained. These were in the custody of the office of the Sub-Registrar, Faridabad. It was also observed that Conveyance Deeds at Sr. No. 3, 4 & 5 in the *Appendix 9* were got registered without signatures of the Sub-Registrar Faridabad. The sale deeds/ agreements, had been drafted to convey creation of third-party rights restricted to commercial offices and there was no reference to sub-division of land. Sub-Registrar, Badkhal mentioned during the Exit Conference with Audit (December 2021) that in such projects the developers submit the project file at the initial stage and the file is checked in detail. The Deeds are registered routinely thereafter and every time the project file was not checked but only Occupation/Completion Certificate was checked. He also mentioned that there was no necessity of NOC under Section 7A of the Haryana Development and Regulation of Urban Areas Act, 1975 (the Act, 1975) before registration of Conveyance Deeds in the Pinnacle Tower as the saleable area was not land but a constructed area. The statement of

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<sup>14</sup> 2<sup>nd</sup> Floor – No. 201 & 206; 3<sup>rd</sup> Floor – No. 301, 305 & 306; 4<sup>th</sup> Floor – No. 404 and 6<sup>th</sup> Floor – No. 603 & 605.

Sub-Registrar was not correct as conveyance deeds could not be executed without obtaining license under Section 3 of the Act of 1975. Copy of project file was specifically sought from the office of Sub-Registrar-cum-Tehsildar, Badkhal and Faridabad but was not made available. However, the Sub-Registrar-cum-Tehsildar, Faridabad intimated that the Deed of Declaration (under Sections 2 and 3 (j) of the Apartment Act, 1983) was not got registered by the developer.

Audit observed that the Developer was not entitled to set up a colony in the form of an integrated commercial complex by flouting the combined zoning plan issued in November 2006. The Developer had also not obtained license under Section 3 of the Act, 1975 by following the provisions prescribed in the Rules 3 to 11 of the Rules, 1976 nor complied with the provisions under section 7A of the Act, 1975 (which requires permission from Director, Town and Country Planning) or followed the provisions of the Apartment Act, 1983, requiring registration of Deed of Declaration. The registered Conveyance Deeds were contrary to above referred provisions. The Developer succeeded in executing 40 conveyance deeds for ₹ 88.94 crore fraudulently (as detailed in **Appendix 9**). Offices of Sub-Registrars had ignored the facts that the Developer had not registered the Deed of Declaration under the Apartment Act, 1983; the Conveyance Deeds did not mention any license under Section 3 of the Act, 1975 mandated under Section 7 (i) of the Act of 1975; and the referred CLU permission was merely for setting up a 'cultural, recreational and hotel' complex issued under the provisions of Rule 26D of the Rules, 1965 without vesting any sale and fragmentation rights. Similar views have also been taken by the Hon'ble Punjab and Haryana High Court in an identical matter in the CWP No. 26147 of 2015 decided on 10 January 2020.

**(vi) MCF allotted the land notified under PLPA, 1900**

It was also seen in audit that the Government of Haryana (Forest Department) had issued a notification under Section 4 of the Punjab Land Preservation Act (PLPA), 1900 (applicable to Haryana), vide Notification No. S.100/P.A.2/S.4/92 dated 18 August 1992. The notification stipulated deemed necessary prohibitions in the revenue estate of Lakkarpur Village of Ballabgarh Tehsil in Faridabad District for 30 years to save the soil from erosion. The MCF land (3.93 acres) allotted to the Developer, on which the 'Pinnacle Business Tower' had been constructed, was part of this PLPA notified area (preserved and protected with prohibitions of non-forestry activities). Despite being a part of the notified PLPA area, the MCF records do not refer to any consultation/No Objection Certificate (NOC) from the Forest Department before making allotment.

**(vii) Lapses on the part of Forest Department**

On further investigation in the Forest Department, it was observed that the Range Forest Officer, Faridabad issued two notices on 1 August 2021 addressed to the buildings situated in the developer's land (Hotel Vivanta and the Pinnacle) for execution of non-forestry activities and committing of violations of the PLPA, 1900, Indian Forest Act, 1927 and Forest Conservation Act, 1980. In response to this notice, the developer submitted an NOC issued on 11 December 2006 by the Range Forest Officer, Ballabgarh (the then jurisdictional office). Vide this NOC, it was intimated that the khasra numbers of the developer's land were not covered under the provisions of the PLPA. However, audit compared the khasra numbers of the developer's land, the PLPA notification dated 18 August 1992 and the khasra numbers mentioned in this NOC (*Appendix 10*) and it was revealed that whole stretch of 3.93 acre land allotted by the MCF (on which Pinnacle Tower was constructed) was covered under the PLPA notified area.

The Range Forest Officer, Ballabgarh intimated on 5 January 2022 that an NOC to the developer had been dispatched vide Sr. No. 211 on 11 December 2006 but no office record of this NOC was in existence in the office. On further scrutiny in the Office of the Dy. Conservator of Forests, Faridabad, it was intimated that the Range Forest Officer was not the competent authority to issue such NOC. Thus, the Range Forest Officer had issued a NOC despite not being competent to do so and had facilitated non-forestry activities in contravention to the *ibid* forest laws. The Forest Department had not initiated any action despite being cognizant of the violations.

**Conclusions**

Audit observed a trail of illegalities starting from the land allotment to the Developer by the MCF in the PLPA notified area; abetted through sanction of building plans for commercial office space in contravention to the CLU agreement; facilitation through issuing of Forest NOC on the PLPA notified area by an officer not authorised to do so and culminating into the illegal execution of Conveyance Deeds at the Offices of the Sub-Registrars, Faridabad and Badkhal. Thus, the officials of MCF, ULB Department, Forest Department and Revenue Department had facilitated such gross violations by the Developer.

The enforcement wings at the MCF as well as the Department of Town and Country Planning had not taken any action against the illegal construction carried out for a period more than nine years.

The matter was discussed in the Exit Conference with the Commissioner, MCF on 3 December 2021. The Commissioner directed the Chief Town Planner to explain the gaps with relevant records due to which the observations have arisen. However, no such explanatory records were produced. These audit findings were brought to the notice of the Principal Secretary to Government of Haryana, Urban Local Bodies Department, Director, Urban Local Bodies, Principal Secretary to Government of Haryana, Forest Department, Financial Commissioner to Government of Haryana in Revenue Department and the Director, Town and Country Planning Department in December 2021 and again in January 2022. An exit conference was held with Director, TCPD and Director, Urban Local Bodies Department (ULB) in April 2022.

(i) The official from ULB Department contended that the area in which the Pinnacle Tower is situated, had been converted to residential area through Spot Zoning in 1994. Audit observed that provision of spot zoning is not available in the Act of 1963 and Act of 1975 and Rules thereunder. Further, the proposal for excluding a part of this site from Natural Conservation Zone (NCZ) had not been approved so far (April 2022).

(ii) The officials of ULB Department stated that CLU was granted before notification under the Punjab Land Preservation Act, 1900 (PLPA). The statement was not based on facts as the notification under PLPA was issued in 1992 and the land in question was allotted by the MCF in 1995.

(iii) It was also intimated by officials of TCPD that notice had already been issued to the Company and an FIR had been registered under Section 7(i) of the Act, 1975. The final action was awaited (April 2022).

### **Recommendations**

The Haryana Government may consider the following:

- (i) Initiation of action against the developer(s) and involved public servants for violating PLPA notification as well as other legal and internal central provisions/procedures at all stages of deviation(s).
- (ii) Prescribing suitable internal control procedures for the offices of Sub-Registrars to ensure that sub-division/fragmentation of the CLU sites is not facilitated through registration of Conveyance/Sale Deeds.
- (iii) Determining the compensation required to be paid to the investors by the Government of Haryana and the Municipal Corporation of Faridabad followed by its payment. This is further required to be followed by consequential action of recovering the compensation

amount paid from the developers and from the concerned officials/persons responsible for the events.

The matter was referred (27 January 2022) to the Principal Secretary/ Additional Chief Secretaries of Government of Haryana, Revenue and Disaster Management Department, Forest Department, Town and Country Planning Department, Urban Local Bodies Department, Haryana for reply/ comments. No response has been received till April 2022.

*Vishal Bansal*

(VISHAL BANSAL)

**Chandigarh**

**Dated: 27 July 2022**

**Principal Accountant General (Audit), Haryana**

**Countersigned**



(GIRISH CHANDRA MURMU)

**New Delhi**

**Dated: 02 August 2022**

**Comptroller and Auditor General of India**

