



To

1. All the Zonal Administrators in the State.
2. All the Estate Officers in the State.

Memo No. A-7-UB-2020/188006-188007

Dated: 26.11.2020

Subject:- Regarding transfer of constructed and occupied institutional buildings/sites allotted by HSVP. Meant for Research and Development, Education & Training, Offices of Professional, Groups/Associations or Societies not engaged in the commercial/manufacturing activities, Corporate Offices, other institutional users.

This is in supersession of earlier policy guidelines on the subject issued from time to time, on the subject cited above.

2. HSVP in the past have been making allotments of institutional sites in the Urban Estates developed in the State of Haryana after carrying out advertisement in leading dailies, interviews by standing Screening Committee headed by Zonal Administrators and thereafter, with the approval of Authority. Such allotments were made with for following specific purposes:-

- i) Research and Development.
- ii) Education and Training.
- iii) Offices of Professional Groups/Associations or Societies not engaged in the commercial/ manufacturing activities.
- iv) Corporate Offices.
- v) Other institutional users.

The ownership of such allotments were made "non transferable" under any circumstances.

3. In the past there have been a litigation on the specific clause, bearing No. 12 of allotment letter which is re-produced below:-

"The plot allotted for institutional purpose shall not be allowed to be transferred in any case".

4. (i) Complaint No. 94 of 2016 before Competition Commission of India(CCI) titled as Gurugram Institutional Welfare Association Versus HSVP wherein, CCI had held the stand of HSVP not to allow the transfer of institutional plots as monopolistic.
(ii) Similarly, Hon'ble Punjab and Haryana High Court in CWP No. 3443 of 2017 titled as Nehru Place Hotels and Real Estate Pvt. Ltd. Vs. State of Haryana had directed Chief Administrator, HSVP to pass speaking order on their application for transfer.

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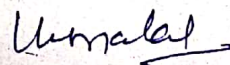
5. In view of the above findings of Competition Commission of India and observations of Hon'ble High Court, the matter was placed before the Pradhikaran in its 120th meeting held on 29.09.2020 vide Agenda Item No. 29.

6. After due consideration it has been decided by the Pradhikaran that the transfer of ownership of above stated category of institutional plots will be allowed on the following terms and conditions:-

- i. Transfer of Institutional buildings will be allowed only in those cases where Occupation Certificate has already been obtained from the Competent Authority. The Institutional plots allotted by HSVP which are lying unconstructed and unoccupied shall not be allowed to be transferred in any circumstances.
- ii. The proposed transferee must fulfill the eligibility criteria as laid down by HSVP at the time of initial allotment of the said Institutional plot.
- iii. The transferee/re-allottee shall abide by the terms and conditions as prescribed in the original allotment letter.
- iv. The Institutional building proposed to be transferred shall not be used for any purpose other than that for which it has been allotted in accordance with the plans approved by the competent authority. No obnoxious trade shall be carried out in the building/site.
- v. The Institutional building shall not be allowed to be subdivided or fragmented under any circumstances.
- vi. No shop or commercial building of any kind shall be allowed/ permitted to be constructed in the building/site.
- vii. In case the re-allottee intends to renovate the existing building/structure, the same shall be allowed only after the building plan of proposed renovation/alteration in existing building/structure is approved by the Zonal Administrator, HSVP concerned.
- viii. Entire outstanding dues including fee/penalty etc., if any, due towards HSVP qua the property/plot must be paid before applying for transfer permission.
- ix. Processing fee for transfer of institutional building will be charged as applicable for commercial properties.

7. The transfer shall be allowed by charging transfer fee equal to 50% of the difference between allotted rate and prevailing collector rate of that area.

It is made clear that transfer fees as referred above shall not be charged in case of institutional sites allotted through e-auction.





8. The transfer of ownership shall be allowed with prior approval of Competent Authority, as described hereunder:-

Sr. No.	Nature of Zone	Competent Authority
1	Hyper Potential Zone	Chairman, HSVP
2	High Potential Zone	Principal Secretary Town & Country Planning, Department
3	Medium Potential Zone	Chief Administrator, HSVP, Panchkula
4	Low Potential Zone	Zonal Administrator, HSVP concerned

9. The above policy guidelines shall be applicable with prospective effect i.e. from the date of issue.

10. A copy of the agenda item no. 120th (29), along with relevant extract of proceedings, is enclosed herewith for reference & records.

11. You are, therefore, requested to take necessary action accordingly and follow up action taken in the matter may be communicated to this office at the earliest.

DA/ As above.

Superintendent(UB),
for Chief Administrator
HSVP, Panchkula.

Endst. No. A-7-UB-2020/

Dated:

A copy of the above is forwarded to the following for information and necessary action:-

1. The Chief Vigilance Officer, HSVP, Panchkula.
2. The Chief Controller of Finance, HSVP, Panchkula.
3. The Chief Engineer-I & II, HSVP, Panchkula.
4. The Chief Town Planner, HSVP, Panchkula.
5. The Chief Information Technology Officer, HSVP, Panchkula. He is requested to host it on HSVP web-site.
6. The Legal Remembrancer, HSVP(HQ), Panchkula.
7. The Chief Architect, HSVP, Panchkula.
8. The Secretary, HSVP, Panchkula.
9. The Dy. ESA, HSVP(HQ), Panchkula.
10. All the Assistant/Record Keepers, Urban Branch, HSVP(HQ), Panchkula.

Superintendent(UB),
for Chief Administrator
HSVP, Panchkula.

Agenda Item No. Pradhikaran-120th U.B. (29)

Regarding transfer of constructed & occupied institutional buildings/sites allotted by HSVP.

1. Haryana Shehri Vikas Pradhikaran (hereinafter referred to as Pradhikaran/Authority) issued an advertisement in the Year 1990 (**Annexure-'A'**) for allotment of free hold Institutional plots were in Sector 32, Gurugram. Condition no. 5 of the brochure was as under:-
"5. The land/building shall continue to vest in the Authority until the entire consideration money together with interest and other amount, if any, due to the Authority on account of sale of such land or building or both is paid. The transferee shall have no right to transfer by way of sale, gift, mortgage or otherwise the plot/building or any right title or interest therein till the full price is paid to the Authority, except with the prior permission of the competent Authority. Only the transfers will be permitted on payment of prescribed fee."

2. A agenda was placed before Pradhikaran 47th meeting held on 12.11.1990 vide agenda no. 47 (13) for approval of detailed terms & conditions for allotment of institutional plots which was deferred with the following directions. Policy, Terms and conditions etc. should be revised to ensure proper utilization of institutional sites. In case the allottee does not utilize the land for the purpose for which it is allotted, it should revert back to HSVP.

3. Again agenda was placed before Pradhikaran 49th meeting held on 28.02.1991 vide agenda no. 49 (16 Suppl.) for approval of detailed terms & conditions for allotment of institutional plots which was also deferred.

4. Thereafter, agenda was placed before Pradhikaran 52nd meeting held on 20.02.1992 vide agenda no. 52 (19) for approval of detailed terms & conditions along with format of allotment letter for institutional plots. Clause no. 12 of allotment letter format is as under:-

*"12. The land/building shall continue to belong to the Authority until the entire consideration money together with interest and other amount if any, due to the Authority on account of sale of such land or building or both is paid. You shall have no right to transfer by way of sale, gift, mortgage, or otherwise the plot/building or any right title or interest therein. **The plot allotted for institutional purpose shall not be allowed to be transferred in any case**".*

5. Accordingly, institutional plots were advertised by HSVP with the precondition that the same would not be transferrable under any circumstances. This condition formed a part of the brochure through which the applications for allotment of the Institutional Plots were invited.

6. It is further submitted that the allottees of institutional plots have been making requests/representations to allow mortgage permission for institutional plot so as to raise the construction on these plots for availing loan facility. The

000398

matter was approved in 88th Authority meeting held on 22.05.2003 vide agenda item no. A-88(11) (**Annexure-'B'**)

7. Later on the Authority approved limited modification vide policy dated 26.02.2009 (**Annexure-'C'**) according to which permission may be granted for changes in organizational structure of Individual allottees of various sites for construction of Corporate Offices, Research and Development Centers, Staff-Education and Training Centers, Officers of Professional Group/Associations/Societies not engaged in Commercial/ Manufacturing activities with the prior approval of Chief Minister-cum-Chairman, HSVP and that too is subject to the condition that the original allottee will have to retain 51% share in the ownership of plot.

8. It is pertinent to mention here that as per the decision of the Pradhikaran, the condition barring sale of institutional plots was made a part of the allotment letter but in the absence of such condition in the format of conveyance deed, the concerned Estate Offices, HSVP have been executing the conveyance deed on the basis of prescribed format for allotment of residential/commercial plots which does not have the condition of non transfer. The perusal of conditions of the conveyance deed being executed by the Estate Officers, HSVP show that the same is at variance with the conditions of allotment letter for the reason that the conditions regarding bar of sale of institutional plot is not mentioned in the conveyance deed. This anomaly in the conditions of allotment letter vis-à-vis the conditions of conveyance deed has resulted into lot of litigation against HSVP.

9. On the perusal of above factual matrix, it is expedient to amend the relevant clause of the conveyance deed to be executed between HSVP and the allottee qua institutional plot(s). The existing provision with regard to above as per Haryana Urban Development (Disposal of Land and Building) Regulation, 1978 is as under:-

(i) **Existing Clause of allotment letter**

*"12. The land/building shall continue to belong to the Authority until the entire consideration money together with interest and other amount if any, due to the Authority on account of sale of such land or building or both is paid. You shall have no right to transfer by way of sale, gift, mortgage, or otherwise the plot/building or any right title or interest therein. **The plot allotted for institutional purpose shall not be allowed to be transferred in any case**".*

(ii) **Existing Clause No. 2 of the Conveyance Deed**

"(2) The Vendor shall have a first and paramount charge over the said site for the unpaid portion of the sale price and the Transferee shall have no right to transfer by way of sale, gift, mortgage or otherwise the land or any right, titled or interest therein (except by way of lease on a monthly basis) without the previous permission in writing of the Estate Officer. The Estate Officer while granting such permission may impose such conditions as may be decided by the Chief Administrator from time to time".

10. (i) It would be relevant to mention here that In case of Complaint No 94 of 2016 titled as Gurgaon Institutional Welfare Association vs. HSVP pending before **Competition Commission of India**, the Director General, Inquiry has held the stand of HSVP not to allow the transfer of Institutional plots as **monopolistic** and **has held Officers of HSVP liable for the same**. The said case involves Institutional Plot No. 25, 35, 39, 87, 141 of Sector 44, Gurugram.

(ii) M/s Nehru Place Hotels and Real Estate Pvt. Ltd. filed CWP No 3443 of 2017 and Punjab and Haryana High Court and sought directions to HSVP to grant permission/NOC to sell the plot. The case was contested by HSVP on the basis of the decision of Pradhikaran. Hon'ble High Court In CWP 3443 of 2017 titled as Nehru Place Hotels and Real Estate Pvt. Ltd. Vs. State of Haryana was disposed on 18.07.2019.

11. HSVP decided to file SLP before the Hon'ble Supreme Court. The SLP No 19574 of 2019 titled as HSVP vs. M/s Nehru Place Hotels was decided on 15.10.2019 (**Annexure-'D'**).

12. Therefore, In view of the observations of the Hon'ble High Court and Hon'ble Supreme Court and the findings of Competition Commission of India, it becomes necessary for HSVP to re-visit the conditions of the allotment letter of the Institutional Plots as well as the policy dated 26.02.2009 to allow transfer of institutional sites.

The policy and instructions of development authorities of other States i.e. Noida, Greater Noida, DDA & PUDA have also been examined and placed at **Annexure-'E'** for ready reference.

13. The perusal of the above policy and instructions of above mentioned development authorities of other states having allowed the institutional plots by imposing certain conditions and transfer fees, while Haryana Shehri Vikas Pradhikaran has been allotting institutional plots on free hold basis but not allowing the transfer in any case.

14. Therefore, in view of the above circumstances, the Pradhikaran may consider to allow the transfer of constructed and occupied institutional buildings/sites on following terms and conditions:-

a. Transfer of constructed & occupied institutional buildings/sites may be allowed through sale deed executed after obtaining prior permission from Competent Authority i.e.

Sr. No.	Nature of Zone	Competent Authority
1	Hyper Potential Zone	Chairman, HSVP
2	High Potential Zone	Principal Secretary Town & Country Planning, Department
3	Medium Potential Zone	Chief Administrator, HSVP, Panchkula
4	Low Potential Zone	Zonal Administrator concerned, HSVP

b. Transfer of Institutional buildings will be allowed only in those cases where Occupation Certificate has already been obtained from the Competent Authority. The Institutional plots allotted by

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HSVP which are lying unconstructed and unoccupied shall not be allowed to be transferred in any circumstances.

- c. The proposed transferee must fulfil the eligibility criteria as laid down by HSVP at the time of initial allotment of the said Institutional plot.
- d. The transferee/re-allottee shall abide by the terms and conditions as prescribed in the original allotment letter.
- e. The Institutional building/site proposed to be transferred shall not be used for any purpose other than that for which it has been allotted in accordance with the plans approved by the competent authority. No obnoxious trade shall be carried out in or any building/site.
- f. The Institutional building shall not be allowed to be subdivided or fragmented under any circumstances.
- g. No shop or commercial building of any kind shall be allowed/ permitted to be constructed in the building/site.
- h. In case the re-allottee intends to renovate the existing building/structure, the same shall be allowed only after the building plan of proposed renovation/alteration in existing building/structure is approved by the Zonal Administrator, HSVP concerned.
- i. Entire outstanding dues including fee/penalty etc if any towards HSVP qua the property/plots must be paid before applying for transfer permission.
- j. Processing fee for transfer of institutional building/site will be charged as applicable for commercial properties.

k. Since the institutional plots were not auctioned, their prices have increased manifold compared to the price at which the allotment was made and there has been a complete ban on transfer of title of institutional buildings/sites/plots 33% of the unearned increase in value of land i.e. difference between the price at which the allotment was made initially and the current market value of the building/site existing in the year in which the allottee makes an application for transfer of building/site, shall be paid by the allottee to the Pradhikaran within given time as provided in the Provisional Transfer permission. The final transfer permission shall be allowed by the Competent Authority as per rules/regulations/policies thereafter. The market value of the property for this purpose shall be assessed by a Committee constituted for this purpose by the Chief Administrator, HSVP. The Committee will consider following aspects while determining the market price:-

- i) Reserve price as fixed by HSVP for institutional plot.
- ii) Collector rate of the area.
- iii) Permissible FAR of the property
- iv) Last auctioned price of similar properties in the vicinity.
- v) Market rate from various websites & other sources.

000401

- vi) Any other source as deemed appropriate by the Committee.

Illustration:-

(i) Mr A was allotted an Institutional plot in Sector 32, Gurugram in the year 2005 at the allotment price of Rs 20,000/- per sqm. He applies for transfer of the title of said Institutional plot in the name of Mr B in the year 2020. The current market value of the said plot is assessed by the HSVP committee @ Rs 90,000/- per sqm for the year 2020. Before the issuance of the final transfer permission of the said plot, the 33% of the difference between the initial allotment price of the year 2005 and the current market price of the year 2020 (i.e. Rs 90,000/- per sqm minus Rs 20,000/- per sqm = Rs 70,000/- per sqm 33% is Rs 23,100/- per sqm) shall be deposited by Mr A with the Pradhikaran in pursuance of the condition of Provisional Transfer Permission.

(ii) The Institutional plots in Sector 32, Gurugram were allotted in year 1994 @ Rs. 2300/- per sqm. and commercial rate in 1994 for Sector 31-32A(residential sector) was Rs. 5907/- per sqm. The HSVP rate for Institutional plots in Sector 32, Gurugram for the year 2019-20 was Rs. 97,500/- per sqm. The market price of would be 33% of the Rs. 1,00,000-2300 = 97700/33% i.e. Rs. 32241/- per sqm.

l. The zoning parameters i.e. FAR etc. shall remain as per original allotment and the permissible additional FAR as per HBC 2017 shall have to be purchased by the transferee.

m. Condition 'k' will not be applicable to sites allotted through e-auction.

n. Any other condition as may be decided by the Pradhikaran from time to time.

o. The transfer will take effect prospectively i.e. from the date of issue of this policy in supersession of any guidelines/policies/ instructions in this regard.

The matter is placed before the Hon'ble Pradhikaran for kind consideration and approval please.

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PROCEEDINGS OF 120TH MEETING OF PRADHIKARAN (HARYANA SHEHRI VIKAS PRADHIKARAN) HELD ON 29.09.2020 at 11:00 AM.

List of Participants is at Annexure 'A'

1) Agenda Item No. 120th (1)

Confirmation of the proceedings of the 118th meeting of Haryana Shehri Vikas Pradhikaran held on 10.07.2019 at 03.00 PM and 12.07.2019 at 10:00 AM under the Chairmanship of Hon'ble Chief Minister, Haryana/Chairman of the Pradhikaran in Main Committee Room, 4th floor, Haryana Civil Secretariat, Chandigarh.

Confirmed.

2) Agenda Item No. 120th (2)

Confirmation of the proceedings of the 119th meeting of Haryana Shehri Vikas Pradhikaran convened by circulation.

To be taken up in the next Hon'ble Pradhikaran meeting.

3) Agenda Item No. 120th (3)

Follow up action taken on the proceedings of the 118th meeting of Haryana Shehri Vikas Pradhikaran held on 10.07.2019 at 03.00 PM and 12.07.2019 at 10:00 AM under the Chairmanship of Hon'ble Chief Minister, Haryana/Chairman of the Pradhikaran in Main Committee Room, 4th floor, Haryana Civil Secretariat, Chandigarh.

Seen

4) Agenda Item No. 120th UB (4)

ह.श.वि.प्रा. द्वारा आबंटित भूखण्डों/मवनों का हस्तांतरण विलेख करते समय गिरवी रखने की अनुमति प्रदान करते समय प्रभारित किये जाने वाले शुल्क के निर्धारण का प्रस्ताव 1

Taken up at regular Agenda No. 36.

5) Agenda Item No. 120th UB (5)

Regarding allotment of land for office of recognized Political parties in Sector- 13-17, Panipat.

Approved (ex-post facto)

6) Agenda Item No. 120th UB (6)

Extension in time limit for approval of building plans and time extension for construction of Booths transport Nagar Sector 25, Kaithal.

(i) Approved (ex-post facto)

(ii) Report may be obtained from Administrator concerned as to how many allottees have got benefit of this relaxation and report be put up for further orders.

7) Agenda Item No. 120th UB (7)

Waiver of surcharge on institutional plots allotted to Central/State Govt. Departments.

Approved (ex-post facto)

23) **Agenda Item No. 120th CCF (23)**
LAC Case Chander kanta Vs State of Haryana, Sector-8, Jhajjar.

Noted.

24) **Agenda Item No. 120th CCF (24)**
LAC Case Ramesh Chander Vs State of Haryana, Sector-9-A, Jhajjar

Noted.

25) **Agenda Item No. 120th CTP (25)**
Development of HMT land falling in Pinjore-Kalka Urban Complex
District Panchkula.

Noted.

26) **Agenda Item No. 120th CTP (26)**
Land Pooling Policy HSVP-2019.

Noted.

27) **Agenda Item No. 120th UB (27)**
Permitting floorwise registration of 'Independent Floor' of SCOs, SCFs
and DSS

Approved with the following observations:-

1% extra stamp duty will be charged when registration of independent floor is done for the first time. Thereafter, on re-sale, no extra stamp duty is to be charged.

28) **Agenda Item No. 120th UB (28)**

निर्धारित अवधि से परे आवासीय/वाणिज्यिक/संस्थागत/सामूहिक आवासीय भूखण्डों/स्कूल/क्लीनिक/नर्सिंग होम के हस्तान्तरण के निर्माण के लिये समय सीमा में विस्तार करने हेतु विस्तार नीति में संशोधन करने बारे।

Dropped except that revision of extension fees in respect of Group Housing Societies which was not approved earlier, is approved.

29) **Agenda Item No. 120th UB (29)**

Regarding transfer of constructed and occupied institutional buildings/sites allotted by HSVP.

Approved with the following modification:

"Transfer be allowed on payment of 50 % of the difference between allotted rate & prevailing collector rate of the area."

30) **Agenda Item No. 120th UB (30)**

अस्पताल/नर्सिंग होम/क्लीनिक के निर्माण हेतु भू-खण्डों का आबंटन में संशोधन।

Approved.