

Government of West Bengal
Housing Department
Law & Statutory Cell
New Secretariat Buildings
1, Kiran Shankar Roy road
Kolkata 700001

HO-23012(11)/22/2019-APARTT CELL-Dept. of HO

Dated 30.06.2022

ORDER

This Authority received an email on **29th June, 2022** at 12.21 PM from an email id **nbcvtoa@gmail.com**. The text of the email is reproduced below: -

“Election Notice in NBCC VT Society

NBCC VIBGYOR TOWERS OWNERS ASSOCIATION Wed, Jun 29

*To
The Competent Authority,
West Bengal Housing Department
Kolkata*

Dear Sir,

As per discussion with you in your office dated 28th June 2022, we had issued Election Notice to Residents for conducting Election in NBCC VT Society. Election will be held on 10th July 2022.

Enclosed Circular Follows.

With regards,

NBCCVTOA”

The said mail contained an attachment which contains a purported notice having Ref. No NBCC/N/2022/06-01 dated 29th June, 2022 issued by one **A. Sinha** claiming to be the Secretary of the **NBCC VIBGYOR Towers Owners Association (the said Association)** on a letterhead of the Association (**the purported notice**) which is enclosed herewith.

This Authority received another email from one **Shyam Sunder Agarwal** claiming to be Election Officer of the said Association in which he enquired whether any directives as mentioned in the purported notice have been issued from the office of this Authority and if so, the same may be sent to him to redress the aggrieved members.

In connection with the said emails and copy of purported notice received by this Authority it is hereby informed to all members of the said Association that this Authority never issues any verbal order or direction to any member or manager or office-bearer of any Association formed and registered under the **West Bengal Apartment Ownership Act, 1972 (the said Act)**. The Competent Authority appointed under the said Act never speaks, he only writes. All orders/directions of Competent Authority are written orders/ directions having an office memo number, date, signature of him at the appropriate place and are duly sent to the recipient or recipients through email or by post or by both.

In the purported notice issued by A. Sinha it is quoted that they had a “lengthy discussion” with this Authority on 28th June, 2022 and this Authority had “strictly suggested” the upcoming election process had to be done in a particular way. Regarding this “lengthy discussion” and “strictly suggested” mentioned in the purported notice, it is further informed to all members of the Association that no discussions on 28th June, 2022 or on any other date whatsoever in this regard were held with any member or manager or office-bearer of the Association with this Authority with respect to the upcoming election of managers of the said Association. Accordingly, the question of giving any suggestion to any such person in this regard does not arise. Moreover, this authority is not legally authorized to give “suggestion” to anyone. He is only authorized to give directions as he considers fit under given facts and circumstances. Section 16B, sub-section (1) of the said Act, reads: -

*“(1) If the Association or Apartment Owners having right to be exercised by the Manager or the Board or Managers fails to perform its functions under this Act or the bye-laws made there under, the Competent Authority may give to it **such directions** as that Authority considers fit.”*

[Emphasis supplied]

Now, therefore, in exercise of the powers conferred under sub-section (1) of section 16B of the said Act this Authority hereby directs the person who issued the said purported notice **to withdraw such purported notice immediately. He/She is further directed to share this order to every member of the Association through any electronic mode immediately for their information and removal of their doubts, if any.**

It is contemplated to initiate appropriate legal steps against the person/persons who issued the purported notice of the Association having Ref No NBCC/N/2022/06-01 dated 29th June, 2022 quoting the name of this Authority to add legality and/or sanctity to that purported notice.

Sd/- Debasis Ghosh
Competent Authority
under the West Bengal Apartment Ownership Act, 1972

Copy forwarded for necessary information and actions to: -

1. **President**, NBCC VIBGYOR Towers Owners Association. He is requested to share this order to every member of the Association through any electronic mode immediately.
2. **Shri Shyam Sunder Agarwal**. He is requested to share this order to every member of the Association through any electronic mode immediately.



(Debasis Ghosh)
Competent Authority
under the West Bengal Apartment Ownership Act, 1972