

MINUTES OF THE 78TH MEETING

FEDERAL GOVERNMENT EMPLOYEES HOUSING FOUNDATION
AL-ASGHAR PLAZA(1ST & 2ND FLOOR) BLUE AREA
ISLAMABAD

F.No.18(1)/2005-HF(A)

Islamabad, the 17th March, 2005.

Subject:- MINUTES OF THE 78TH EXECUTIVE COMMITTEE MEETING OF
THE FEDERAL GOVERNMENT EMPLOYEES HOUSING
FOUNDATION HELD ON 11.03.2005.

The 78th Executive Committee meeting of the Federal Government Employees Housing Foundation was held on Friday, 11th March, 2005 at 10.30 A.M in the Committee Room of M/O Housing & Works, Block 'B', Pak. Secretariat, Islamabad.

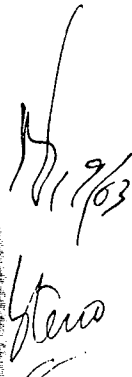
2. The minutes of the said meeting are enclosed for your information please.


(Syed Kazim Abbas)
Assistant Director(Admn)

1. P.S. to Secretary,
M/O Housing & Works, Islamabad.
2. Mr. Abrar Alam,
Joint Secretary(Works),
M/O Housing & Works,
Islamabad.
3. Brig. M. Khalid Sohail Cheema,
Director General,
Pak. PWD, Islamabad.
4. Mr. S.M. Junaid,
Senior Joint Secretary,
M/O Interior, Islamabad.
5. Mr. Muhammad Raziq,
Senior JS(Finance/
Financial Advisor(Works),
Islamabad.
6. Brig. Nusratullah,
Member Planning,
CDA, Islamabad.
7. Mr. Shahid Hameed,
Joint Engineering Advisor,
M/O Housing & Works, Islamabad.
8. Mr. Nazir Ahmad Nasim,
Director General,
FGE Housing Foundation.
9. Mr. Abid Bashir,
Deputy Secretary(Admn),
M/O Housing & Works.

Copy of the minutes also forwarded to:-

1. Director (Admn), Housing Foundation, Islamabad.
2. Director(Finance), Housing Foundation, Islamabad.
3. Director(Technical), Housing Foundation, Islamabad.
4. Rana Taj Muhamamd Khan, Co-opted Member, H.No. 153-B,
St.101, G-6/1-4, Islamabad.


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FEDERAL GOVERNMENT EMPLOYEES HOUSING FOUNDATION
AL-ASGHAR PLAZA (1ST & 2ND FLOOR) BLUE AREA
ISLAMABAD

SUBJECT:- MINUTES OF THE 78TH MEETING OF THE EXECUTIVE COMMITTEE HELD ON 11.3.2005.

The 78th meeting of the Executive Committee was held on 11.3.2005 at 10.30 A.M in the Committee Room of the Ministry of Housing & Works, B-Block, Pak. Secretariat Islamabad. Secretary Housing & Works was in chair. List of participants is enclosed.

2. The meeting commenced with the recitation from the Holy Quran. The Chairman welcomed the participants. The Agenda items were then discussed as under:-

Agenda Item No.1 ELIGIBILITY OF EMPLOYEES OF AGRICULTURAL PRICES COMMISSION IN PHASE-IV HOUSING SCHEME.

2. In Phase-IV of the Housing Scheme, launched in January 2004, according to the terms and conditions laid down in the Brochure, Employees of Ministries, Divisions, Attached Departments (declared as such and included in the rules of business) and Sub-ordinate Offices were eligible under 75% quota whereas the employees of Autonomous Bodies, Corporations under the control of the Federal Government were eligible under 8% quota.


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3. Since the status of the Agricultural Prices Commission was of an autonomous body, the applicants of this organization were placed under 8% quota.

4. Two employees of the organization filed a Writ Petition in the Lahore High Court Rawalpindi bench for seeking declaration that they should be considered under 75% quota. The Honourable High Court disposed off the Writ Petition with the observation that the Executive Committee of the Federal Government Employees Housing Foundation shall decide the eligibility of the petitioner after hearing them and pass a speaking order. The case was accordingly presented before the Executive Committee in its 78th meeting held on 11.3.2005.

5. The petitioners, M/s Mian Mukhtar Ahmed and Muhammad Bakhsh Malik were called to present their view points before the Executive Committee and were heard.

6. The petitioners pleaded that they are government servants and drawing their salaries from the Government/AGPR as such they were eligible under 75% quota. The Executive Committee observed that the fact is not denied that they are government servants but pointed out that according to the terms and conditions of the eligibility, it is the status of the organization which shall determine their eligibility for placement in the respective quota. It was informed that according to the terms and conditions laid down, the employees of Ministries/Divisions, Attached Departments declared as such in the rules of business and Sub-ordinate Offices notified by the respective Ministry, were


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eligible under 75% quota. They were advised to produce notification about the status of their organization to substantiate their claim.


7. The petitioners referred a letter of M/O Food and Agriculture wherein it was mentioned that Agricultural Prices Commission is its Sub-ordinate office. But the Committee was of the view that as per advice of Management Services Division that the Administrative Ministry should have notification for declaring the status of Sub-ordinate office of its organization.

8. The other argument of the petitioners was that their organization was created through a resolution and as per Judgement of the Supreme Court their status is of Civil Servant. In this regard it was observed that Establishment Division has issued a circular in 2000 that in pursuance to the said Judgement all the Ministries Division should declare and notify the status of their organizations.

9. The Housing Foundation produced a booklet issued by the Establishment Division, Management Services Wing, where the Agricultural Prices Commission has been notified as an Autonomous body.

10. The Executive Committee observed that any organization which is declared as a Sub-Ordinate Office is to be notified by the concerned Ministry. No such notification has been issued by the Ministry of Food & Agriculture, the controlling Ministry till 15.11.2003 i.e. the cut off date. The Management Services Division of the Establishment Division, has classified the organization as an Autonomous Body.

11. It was decided that in the light of the fact that there is no notification regarding declaration of the Agricultural Prices Commission as a Sub-Ordinate


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Office and in the light of the classification made by the Establishment Division, the plea of the petitioners has no grounds. It was further decided that the petitioners alongwith all other applicants who are employees of the Agricultural Prices Commission are eligible for consideration under 8% quota.

Agenda Item No.2: CASE OF MR. M. SHARIF KHAN, RETIRED EMPLOYEE OF FEDERAL SHARIAT COURT.

12. In compliance to the orders of the Honourable High Court dated 15.3.2000, a reasonable quota was to be fixed in the next Housing Scheme for the employees of constitutional Bodies and Lawyers which was for disposal through respective institutions. Accordingly in Phase-IV of the Scheme, 5% quota was earmarked for 11 bodies including constitutional bodies and professionals.

13. In case of Employees of Federal Shariat Court, 18 plots of 5 different categories, proportionate to the number of applicants, were placed at the disposal of the Federal Shariat Court alongwith the complete list of the applicants for final nominations disposal and intimation to the Housing Foundation for issue of formal offer. The name of Mr. Sharif Khan was included in the applicants list furnished by the Housing Foundation. However, the final list approved by the competent authority of the Federal Shariat Court did not include the name of Mr. Sharif Khan.

14. Mr. Sharif Khan, aggrieved by this action filed a Writ Petition with the Lahore High Court Rawalpindi Bench against the Housing Foundation. The Honourable High Court disposed off the Writ Petition with the observation that

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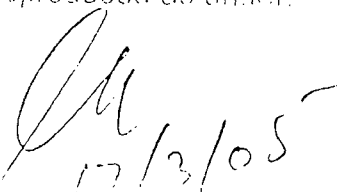
the Executive Committee of the F.G.E. Housing Foundation will decide the case after hearing the petitioner and pass a speaking order.

15. The matter was placed before the Executive Committee in its 78th meeting held on 11.3.2005. The petitioner, Mr. Sharif Khan was also invited to present his point of view before the Committee.

16. Mr. Sharif Khan was heard in person. He pleaded that he had applied in Phase-III Housing Scheme but was not allotted a plot and that he did not withdraw the seed money. He further stated that he is being denied allotment of plot by the Housing Foundation though he has retired. The Executive Committee observed that he could not be allotted a plot in Phase-III as he did not fulfill the eligibility criteria. Non withdrawal of seed money does not constitute a right for the allotment.

17. The Housing Foundation submitted that in accordance with the orders of the Honourable Court, the quota earmarked for such institutions was to be disposed of through the respective institution. In case his name was not included in the list recommended by the competent authority of the Federal Shariat Court, he should have made a representation before the authority of the Federal Shariat Court instead of filing a Writ Petition against the Housing Foundation. When questioned whether he had filed such a representation, the reply of the petitioner was in negative.

18. The petitioner further pleaded that he should be considered against the retired quota. The terms and conditions of the brochure were examined by the Committee. The criteria under retired quota is reproduced as under:-


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"Retired Federal Government Employees of Ministries/Divisions Attached Department and Subordinate Offices."

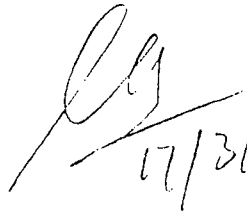
19. The Executive Committee observed that under the provisions of the criteria, Mr. Sharif Khan was not eligible for consideration under retired quota as he was not an employee of any of the categories mentioned in the criteria.

20. It was also submitted before the Executive Committee by the F.G.E. Housing Foundation, that while forwarding the recommendations, the Registrar Federal Shariat Court had asked for additional plots, indicating a few specific names, to be accommodated. This did not include the name of Mr. Sharif Khan. Though these additional plots were regretted, but this establishes that there might be cogent grounds before the competent authority of the Federal Shariat Court to have excluded him.

21. The Executive Committee after detailed examination found no merit in the case and rejected it.

Agenda Item No.3: CASE OF MR. MOHAMMAD NAZIR RETD EMPLOYEE OF LAHORE HIGH COURT.

22. In compliance to the Orders of the High Court dated 15.3.2000, a reasonable quota was to be earmarked in next Housing Scheme for Employees of Constitutional Bodies for disposal through respective institutions. Accordingly in Phase-IV of the Housing Scheme, 5% quota was earmarked for 11 bodies including Constitutional bodies and professionals.


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23. In case of employees of High Court, a quota of 26 plots of 5 categories was earmarked and placed at the disposal of the High Court for further dispensation alongwith the list of the applicants. This list included the name of Mr. Mohammad Nazir but the final list duly approved by the competent authority of the High Court did not include his name.

24. Aggrieved by this action, Mr. Mohammad Nazir filed a Writ Petition with the Lahore High Court Rawalpindi Bench. The Writ was disposed off by the Honourable High Court with the observation that the Executive Committee of the F.G.E. Housing Foundation will decide the case of Mohammad Nazir after hearing him and pass a speaking order.

25. The matter was placed before the Executive Committee in its 78th meeting held on 11th March 2005. Mr. Mohammad Nazir was called to appear in person to present his case. He was heard in person.

26. Mr. Nazir based his argument on the orders dated 12.7.2004 in C.M. No.1038/4 in Writ Petition No.1234/1997 by quoting the statement given by the Law Officer of the F.G.E. Housing Foundation reproduced as under:-

"The learned Law Officer appeared on behalf of the respondents and stated that in the new Housing Scheme launched by the Foundation, a special quota as directed by the High Court has been allocated for the accommodation of the Writ Petitioners/applicants and the employees of the High Court (Rawalpindi Bench) similarly placed."

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27. It was further submitted by the Housing Foundation that in the orders of the High Court dated 12.7.2004 in CM No.1038/4, the Honourable Court had finally decided as under:-

"The employees shall be entitled for their particular category on the basis of their regular posting in Basic Pay Scale and an employee in service at the time of cut off date given/announced by the Foundation, keeping in view the date of birth of all the candidates."

28. The petitioner also supported his case banking on the orders dated 2.7.2004 in Criminal original No.148-W-2000 in case of employees of Supreme Court of Pakistan which is reproduced as under:-

"However, preference shall be given to the persons who filed the Writ Petition and legally fought for the rights of the employees of the Supreme Court irrespective of the fact that if any Writ Petitioner has retired."

29. The Executive Committee observed that the orders dated 2.7.2004 in case of Criminal Original No.148-W-2000 specifically related to the petitioners of the Supreme Court and the orders do not cover the employees of High Court where orders dated 12.7.2004, in CM No 1038/4 were applicable.

It was observed that in presentation of his argument, the petitioner had eliminated operative part of the orders dated 12.7.2004, which clearly states that "employees shall be entitled for their particular category on the basis of their

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regular posting in Basic Pay Scale and employment in Service at the time of cut off date given/announced by the Foundation:-

30. The Executive Committee observed that the petitioner retired on 5.8.2001 and according to the parameters laid down in the orders, he was not eligible for allotment. It was further observed that the orders dated 2.7.2004 in case of Supreme Court employees, was misquoted by the petitioner since these were not applicable or extended to others.

31. The Executive Committee further observed that in Phase-III, Mr. Nazir was not an applicant thus has no edge over others. It was also observed that the quota for the employees of the High Court was placed at the disposal of the Honourable Court for finalization and disposal. The competent authority in the High Court must have had all the judgements and orders in view while finalization of the recommendation.

32. The Executive Committee found no merit in the case and rejected the plaint.

Agenda Item No.4: CASE OF MR. IZHARUL HAQUE REGARDING REVIEW OF TERMS & CONDITIONS OF PHASE-IV HOUSING SCHEME.

33. In Phase-IV Housing Scheme, launched in January 2004, according to the terms and conditions priority is to be given to those applicants who, their spouse or family were not allotted a house/flat/plot in Islamabad by the Housing Foundation, CDA or any Government Agency at any time whether it was retained or disposed off.

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34. Mr. Izharul Haque, an officer of BPS-21, filed a complaint with the Wafaqi Mohtasib Secretariat whereby he challenged the aforesaid criteria on the plea that in Phase-II, the Foundation had declared applicants of category-I and category-II who owned a flat/plot of 200 sq.yds or less, eligible for allotment of plots on priority. He stated in his complaint that he was allotted a plot of 166 sq.yds in Sector I-10/2 in 1985 which he disposed of at a price of Rs.1,10,000/-. He further stated that he does not own any plot/house in any city and that due to aforesaid eligibility criteria he is deprived of Category-I plot of his entitlement. He prayed in his complaint for accord of priority to him in Phase-IV of the Housing Scheme like that it had been done for applicants of Phase-II.

35. The Honourable Wafaqi Mohtasib in his orders dated 11.10.2004 recommended as follows:-

"The consideration of the matter has been entrusted to the Executive Committee "to remove inequality, inequity and discrimination" in its two decisions. The Executive Committee should therefore implement the recommendations in letter and spirit and report implementation within 15 days."

36. The matter was accordingly placed before the Executive Committee in its 78th meeting held on 11.3.2005.

37. The Executive Committee examined in detail the terms and conditions of Phase-II of the Housing Scheme floated in 1992. It was observed that in the brochure, published and sold, it was very clearly stated that those employees who own a house/flat/residential plot either in their names or in the

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names of the dependent members of their family in Islamabad/Rawalpindi were ineligible. However, on 16.2.1994 a Committee was constituted which made its recommendations, among others the following:-

"The applicants of Category-I and II houses who own residential plots measuring 200 sq.yds or less in Islamabad/Rawalpindi may also be considered on merit on case to case basis."

38. These recommendation were approved by the Executive Committee in its 39th meeting.

39. The Executive Committee observed that once the terms and conditions are drawn, published and notified these become binding on the applicants as well as the Housing Foundation. During currency of the scheme, if any deviation is contemplated and made, then fair play demands that these should be publicized so that those who have not been able to apply in the scheme in view of the terms and conditions previously laid down in the brochure should also be able to participate. The modification/alteration made in the terms and conditions of the brochure two years subsequent to the floating of the scheme were abinitio incorrect and against the law and discriminatory as these were not publicized but restricted to the applicants. Also the word "case to case basis" is further objectionable as it was restrictive.

40. A question was raised whether any injustice has been done by the change of terms and conditions of one scheme to another. It was observed that with passage of time, an attempt is made to improve the terms and conditions and to remove anomalies. Thus the terms and conditions in Phase-II were

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improvements on those of Phase-I, and similarly that of Phase-III were improvement on that of Phase-II and that of Phase-IV were improvement on the terms and conditions of Phase-III. These improvements are not based on providing benefit to or depriving any individual but is for the benefit of all classes of the applicants. Thus there has been no discrimination, iniquity or injustice to anyone if the terms and conditions of brochure of Phase-IV differs from the previous schemes.

41. The Executive Committee observed that no change in the terms and conditions can be made during the currency of the scheme. The High Court has also upheld the terms and conditions of the current Housing Scheme in CM No.1038/4 in Writ Petition No.1234/97. In another Writ Petition 2520/2004 the High Court has decided that it is the domain of the Housing Foundation to fix the criteria keeping in view the availability of plot.

42. The Executive Committee also discussed identical cases. It was felt that the terms and conditions once settled cannot be changed during the currency of the scheme. These cases would be considered as second priority once the cases of priority one have been exhausted as laid down in the Brochure. The terms and conditions of the brochure shall not be changed.

ADDITIONAL DISCUSSION POINTS:

1. The Executive Committee discussed the representations/complaints on nominations for the quota of Constitutional Bodies & Professionals, and debated whether the lists recommended by the respective institutions are to be further

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scrutinized by the Housing Foundation or not. After a detailed discussion it was agreed that these quotas are to be placed with the respective institutions for dispensation according to eligibility criteria and it was not possible for the Foundation to finalize the lists. It was decided that the Housing Foundation should provide, if not already provided, all such bodies the detailed instructions/procedures to be followed/principal criteria for allotment with the request that while making recommendations these be kept in view.

2. A question was raised whether the complaints from the employees of these bodies should be attended by the Housing Foundation/Executive Committee. After a detailed discussion it was decided that all complaints from the employees of these bodies addressed to the Housing Foundation should be referred to the concerned institution for attending the complaints and redressal of grievance. The Committee further recommended that each organization be advised to circulate the offer of plots and final merit lists amongst its employees for obtaining objections if any. Such objections must be considered and settled before final list is recommended to the Housing Foundation for allotment of plots. Even those organizations whose employees have been allotted plots provisionally be advised to review keeping in view the objections, if received subsequently. However, in case the

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grievance is not attended and prima facie merit/criteria is violated, the Executive Committee may examine the matter.

3. The Executive Committee took a serious note of the proxy by Members of the Executive Committee. It was observed that members of the Executive Committee are by designation and ample time is given for the meeting. In case of exigency, the member should intimate prior to the meeting. No proxy shall be allowed.

43. The meeting concluded with a vote of thanks.

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