

PUBLIC GRIEVANCES COMMISSION
(Govt. of NCT of Delhi)
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Order under Para 2(B) of the PGC Resolution No F.4/14/94-AR dated 25.9.97

Date of hearing: 25.7.2019

Complainant : Shri Ramesh Chandra Rustagi – Present.

Respondent : District Magistrate (South East),
Revenue Department, GNCTD
Through Sh. Abhineet Sapra
Registrar of Society/Firm – Present.

Grievance No. : PGC/2019/Annex.II/Rev./04

1. Brief facts of the case

Shri Ramesh Chandra Rustagi has filed a grievance in this Commission on 13.3.2019 alleging irregularities committed by Residents Welfare Association, Pocket F, Sarita Vihar (Registration No. S/25734 of 1994).

Briefly, the grievance is as under:-

- The residents who have defaulted in making payments of the maintenance charges for even one day were not allowed to vote, whereas Rule 15 of the Societies Act, 1860 states that any member who has not deposited his contribution for more than three months cannot vote. It implies that any member who has arrears of less than three months can vote.

- The voters list was manipulated and the election process was not observed as per the rules laid down under the Societies Act, 1860.
- An enquiry be conducted into the irregularities by Registrar of Society, for removal of discrepancies in light of the provisions of Societies Act, 1860 and various orders of Hon'ble Supreme Court of India in this regard.

2. Facts as emerged during the hearing

Shri Abhineet Sapra, Registrar of Society, South East District submitted a report in the matter. The same has been perused and taken on record.

It is stated that in a related matter of another society registered under the Societies Registration Act, 1860, the Revenue Department (HQ) has advised as under:-

- i. *"The Society Registration Act, 1860 under which the society has been registered is aimed at merely to facilitate registration of society. A society, once registered enjoys the status of legal entity apart from the members constituting the same. The Act prescribes a procedure to register a society, to recognise the society as a separate entity other than its members, enable the society to acquire property moveable or immovable in its own name, to sue or to be sued in the name of the society, internal management of the society i.e. through governing body, relationship between the members and the society, dissolution of the society and duties to file certain documents by the society to the Registrar. Hence, the Registrar has no role to play as far as the dispute, if any is between the society and its members, among members or dispute between the governing body and the members.*
- ii. *Primarily, the role of the Registrar is merely to register the society on fulfilling the requisite formalities and to acknowledge the statutory documents furnished by the society to the office of the Registrar in terms of Section 4 (filing of Annual List of Managing body), and 12(A) (Registration of Change of name of the Society).*
- iii. *In view of the scheme of the Society Registration Act, and the limited role assigned to the Registrar under the Act, as enumerated hereinabove, the issue as to which body to be recognised as the legal governing body does not fall within the jurisdiction of the Registrar. In case of any dispute, the aggrieved person or party may file a suit and obtain appropriate order from the civil court."*

With regard to submissions of the complainant that Registrar of Societies is a quasi-judicial authority and therefore can act as an Arbitrator and adjudicate the matter, it is submitted that the complainant is accepting one part of judgment dated 12.4.2012 of the Hon'ble Supreme Court, not accepting the other part of the same judgment. While the Hon'ble Supreme Court has held that RoS exercises quasi-judicial function in granting registration to

a society. It has further held that “The Act does not vest any control or supervision or disciplinary power or jurisdiction in the Registrar of Societies to take action against a society registered under the Act. The disputes in relation to a Society registered under the Act would, necessarily, have to be taken before, and resolved by the Civil Court which is also evident from Sections 13 and 14 of the Act, which provide for resolution of issues dealt with therein by the Court.

It was further stated that once registration is granted, in view of the order of the Hon'ble Supreme Court, the Societies Registration Act, 1860 does not vest any control or disciplinary power or jurisdiction in the Registrar of Society, to take action against a Society under the Act. Any disputes in relation to a society, registered under the Act, would necessarily have to be taken before, and resolved by the Civil Court. The list of few court cases made available by the complainant are not relevant in view of the above submissions. It is, therefore, open for the complainant to approach the concerned court for dispute redressal relating to the concerned society.

Further, the complainant has been informed personally that under the Societies Registration Act, 1860, nowhere any powers have been vested in Registrar of Societies in respect to redressal of disputes pertaining to any registered society and the same fact has been acknowledged by him in his letter dated 29.1.2019 addressed to the Commission.

The complainant Shri Ramesh Chander Rustagi is present and reiterated that Section 13 of the Societies Registration Act relates to an internal dispute. Hence, it is not applicable in this case as his grievance relates to violation of law of the country by RWA registered by Registrar of Societies (RoS) who is a quasi-judicial body as per judgement of Hon'ble Supreme Court. He further stated that whenever there is violation of law and the same is brought to the notice of concerned Govt. Official, the Government should immediately acts and take action for preventive measures and simultaneously action to punish the law-breaker. The onus to take preventive measures as well as to punish the guilty after establishing the facts, therefore, lies on the office of Registrar of Societies. He further stated, if the Registrar feels that he is not in a position to take any action he could consider forwarding the case to higher authorities with his remarks.

3. Directions of PGC

In view of the rule position explained by the Registrar of Society, South East District, New Delhi, under Societies Registration Act, 1860 and observations of the Hon'ble Supreme Court of India and the deliberations during the proceedings, it has transpired that the Registrar of Society has a limited role i.e. to register the society on fulfilling the requisite formalities. No powers have been vested in the Registrar of Societies in respect of redressal of disputes pertaining to any registered Society.

In view of the above discussion, the case of the complainant is closed and it stands disposed of in this Commission, with the advice to complainant to approach the Civil Court with regard to his grievances mentioned in his complaint filed in the Commission.

(SUDHIR YADAV)

MEMBER (PGC)

Copy to:

1. The District Magistrate (South East), Revenue Department, Govt. of NCT of Delhi, Old Gargi College Building, Lajpat Nagar-IV, New Delhi-110024.
2. Shri Abhineet Sapra, Registrar of Society/Firm, Revenue Department, Govt. of NCT of Delhi, Old Gargi College Building Behind LSR College, Lajpat Nagar-IV, New Delhi-110024.
3. Shri Ramesh Chandra Rustagi