

# OFFICE OF THE REGISTRAR COOPERATIVE SOCIETIES

GOVERNMENT OF NCT OF DELHI

OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI - 110 001

No.F/Reader/Addl.RCS/Sec.61/2018/ 1660-1662

Dated : 04/08/2020

Shri M.L. Gupta,  
r/o C-293, East End Apartments CGHS Ltd.,  
Mayur Vihar-I (Extn.), N.D. - 96.

.....Appellant

Versus

The President/Secretary,  
East End Apartments CGHS,  
Mayur Vihar-I Extension, N.D. - 96.

.....Respondent

## ORDER

This order shall dispose of the representation dated 23-10-2006 from Shri M.L. Gupta member of East End Apartments CGHS Ltd., alleging against Shri S.K. Bose for committing following irregularities, frauds and deceitful acts during his tenure as Secretary of the society from November, 2001 to October, 2004:-

1. misappropriate of lakh of rupees by submitted fake and false bills in undue excess of actual expenditure incurred on plantation on basement roofs and also on removable seepage - spent about Rs. Ten Lakh without any resolution of General Body.
2. Engagement of advocates on very exorbitant fees for taking back a huge money by way of a commission from the advocates.
3. Waiving of penalty / interest towards late payment of maintenance, without any resolution resolved by the GBM.
4. Allowing Reliance Infocom to layout cable network in the society without any fee.
5. Not persuing the case in the courts against Satish Chandra & Co. (contractor) resulting into heavy loss on litigation and also recovery of Rs.30 Lakh from the contractor.
6. Awarding contract of fire fighting work of the society for Rs.72,00,000=00 in place of Rs.30,59,805=00.
7. Wasted money on fountain and iron net for boundary of the central park.

8. Distributed Rs.12 Lakh from construction fund, to the members of the society without any resolution of GBM, authority and reason, to oblige the members to seek their votes in the election.
9. Enrolment of his daughter and son-in-law as a joint member of the society, fraudulently. Further charged Rs.13.9 Lakh from his daughter against the cost of flat of Rs.34,88,000=00.
10. Taking money from one Shri S.D. Sharma to help him against the complaint of one Mr. Lahurman Dass.
11. For cash consideration of Rs.10 Lakh. He helped Mrs. Kusum Bhandari in purchasing and selling of two flats in the society (sold flats at Rs.40 Lakh but showed the sale at Rs.20 Lakh only, caused a heavy loss to government and public).

Shri M.L. Gupta also made another complaint against Shri G.S. Aggarwal, Ex. Dy. RCS (Arbitration) and Shri Ashwani Kumar Alag, Arbitrator.

Taking cognizance of said complaint, comments were obtained from the society and Shri S.K. Bose as well. The President of the Society, vide his letter dated 08-12-2006, more or less supported the points No.1 to 6, 8, 9, and 11 of the complaint. Further, for complaint at point No.7 and 10, the society did not support the allegations.

On the other hand, Shri S.K. Bose, vide his letter dated 22-11-2006 denied the allegations and submitted that the present President and Secretary of the society are hand in glove with the property dealing family; and the complaint, with the help of the President and the Secretary of the Society, is using selected documents from the society office to mislead the RCS Office.

Later on, after a long spell of period, the complaint Shri M.L. Gupta, took-up the matter through RTI/CIC. Consequently, comments on the above complaint dated 23-10-2006 were obtained from the society once again. The Secretary of the Society, vide his letter dated 15-12-2017 submitted the following: -

- The allegations made at Point No.1, 4, 5, and 7 cannot be substantiated as no supporting documents have either been submitted by the complainant or available with the society.
- For allegation at Point No.2, 3 and 8, regarding (i) advocate bills, (ii) waiving of penalty / interest for late payment of maintenance, and (iii) distribution of amount among the member from 'construction fund', was settled after due decisions by the then Managing Committee.
- For Point No.6, the society submitted that the estimate of Rs.63,20,315=00 for firefighting equipment was unanimously approved by the GBM held on 01-08-2004, however, the work was awarded for Rs.49,47,870=00 vide MC Resolution dated 26-

09-2004. Further, the said job was got completed during 2007-2010, in which the complainant was himself a member of MC.

- The matter relating to the complaint at Point No,9 is sub judice and pending before the Hon'ble Delhi High Court, and the membership of Capt. Surinder Mohan was ceased by the Ld. RCS on 09-05-2003 in case No.RCS/17/03 and the same was never challenged and, therefore, attained finality.
- For complaint at Sl.No.10 and 11 the cases were dismissed by the Ld. RCS vide order dated 19-07-2008 and 18-11-2013, respectively.

Consequently, the matter was examined and proceedings were initiated under Section 61 of DCS Act, 2003. Accordingly, notices were issued for providing opportunity. Oral arguments were heard and their respective written submissions were also obtained.

Shri S.K. Sharma, Advocate, on behalf of the respondent Shri S.K. Bose, submitted the following: -

- The subject matter of the complaint is nothing but unsubstantiated allegations. Further, the complaint was time barred even when it was filed originally. The complaint pertains to the tenure of the answer respondent, which ended in 2004, however, the complaint came to be filed in two years later in 2006. Further, the complainant slept over the matter from 2006 to 2018 when he woke up suddenly and wrote to this office.
- In a cooperative society all the acts, liability and responsibility are collective and nothing happens unilaterally. In the present case, not a single person other than the answering respondent has been named. The Hon'ble Delhi High Court in WP(C) No.421/2010 vide its Judgment dated 09-05-2011 stated that the definition in Section 2(e) provided that a committee means the governing body of a cooperative society by whatever names called, to which the management of the affairs of the cooperative society is entrusted. Thus, each director shares the responsibility.
- the complainant repeatedly refer to "Bose and Co." without impleading anyone else of that MC. The statement of the complaint makes it clear that it was not Sh. S.K. Bose alone but a group that was responsible for the wrongdoings. The group was therefore a necessary party to the issue, however, none have been impleaded except Shri S.K. Bose leading to non-joinder of necessary parties.
- The allegation of the complainant to the fact that the expenditure incurred during my tenure i.e. from 2001 to 2004 is false, baseless and incorrect as is made out from the fact that the books of Accounts of the society had been duly audited by the auditor appointed by the office of RCS. No such objection as per the allegations of the complainant were recorded by the auditors in any of the stated years. Moreover, the said audit reports had been duly vetted and approved by the AGBM of the society held on 20-10-2002, 12-10-2003, and 01-08-2004 respectively and as such nothing remains to be questioned thereafter.

- The son-in-law and daughter of Shri S.K. Bose had filed two arbitration cases bearing Nos.5125/DR/Arb./2009-10 and 1674/DR/Arb./2007-08 seeking possession of the flat and damages as also quashing the report of the Inquiry Committee against them as set up by the society, and these cases were awarded in favour of son-in-law and daughter of Shri S.K. Bose vide order dated 14-01-2011 and 23-05-2011. The society filed appeal before the DCT against the above awards and the same were dismissed by the DCT vide order dated 22-02-2019 and 16-05-2019 respectively. Further, apart from these Awards and orders, one Smt. Seema Verma filed Writ Petition No.12233/2016 seeking to stop the handing over the possession of the flat to them, has also been dismissed by the Hon'ble Delhi High Court vide order dated 11-07-2019.

On going through the available record, it reveals that:-

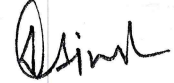
- the complainant repeatedly referred to Bose & Co. without impleading any other member of the MC. The statement of the complainant itself makes it clear that it was not Sh. S.K. Bose alone but a group that was responsible for the alleged wrong doings.
- The minutes of AGBM held on 20-10-2002, 12-10-2003 and 01-08-2004, which were also attended by the complainant, reveals that the AGBM unanimously resolved to approve the accounts of the society for the period up to 2003-04.
- The allegation for allowing Reliance Infocom to layout cable network in the society without any fee and for his own benefit, the complainant did not submitted any documentary evidence to substantiate his allegation. However, the agreement made on 27-06-2006 between the society and M/s. Reliance Infocom Ltd. is signed by one Sh. Rajender Dayal on behalf of the society and not by Shri S.K. Bose.
- The complainant did not provide any supportive document/evidence supporting his allegation that Shri S.K. Bose had taken Rs.6 Lakh from Satish Construction to get the case dismissed on non-prosecution before the Delhi State Consumer Disputes Redressal Commission.
- The matter relating to complaint mentioned at Sl.No.9 above, the complainant has placed on record a report of Inquiry Committee, which recommended the expulsion of Sh. Shib Das Sarkar and Smt. Indrani Sarkar, on 08-05-2007. However, the same was quashed and set aside by the Ld. Arbitrator vide Award dated 23-05-2011. Further, the enrolment of the Sh. Shib Das Sarkar and Smt. Indrani Sarkar was upheld by the Ld. Arbitrator vide Award dated 14-01-2011. Further, the appeal made by the society against these awards were also dismissed by the Hon'ble DCT.
- As regard to allegation for taking money from one Shri S.D. Sharma to help him against the complaint of one Mr. Lahurman Dass, the complainant admitted himself that the Ld. RCS has accepted the complaint on the issue for enquiry. Further, as stated by the society, the case was dismissed by the Ld. RCS vide order dated 19-07-2008 in case No.RCS/023/06.

Regarding membership of Mrs. Kusum Bhandari and Mrs. Kusum Rani, the Ld. RCS vide Order dated 18-11-2013 in Case No.RCS/85/04 dismissed the complaint dated 11-07-2003 filed by Shri M.L. Gupta against Mrs. Kusum Bhandari and Mrs. Kusum Rani.

Keeping in view of the above, I am of the opinion that the complaint did not provide any substantial documentary evidence/factor which may compel the respondent to undergo with an enquiry under Section 61 of DCS Act, 2003. Hence appeal is dismissed.

The case is disposed off, accordingly.

The case file be sent to the concerned Assistant Registrar Cooperative Society / Section to keep the same on record.

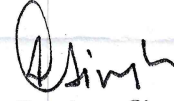


(Ranjeet Singh)

Additional Registrar Cooperative Societies

To

1. Shri M.L. Gupta, r/o C-293, East End Apartments CGHS Ltd., Mayur Vihar-I (Extn.), N.D. - 96..
2. The President/Secretary, East End Apartments CGHS, Mayur Vihar-I Extension, N.D. - 96.
3. Shri S.K. Bose, r/o 24/701, East End Apartments CGHS Ltd., Mayur Vihar-I (Extn), N.D. - 96,



Ranjeet Singh)

Additional Registrar Cooperative Societies