

OFFICE OF THE REGISTRAR COOPERATIVE SOCIETIES

GOVERNMENT OF NCT OF DELHI
OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI - 110 001

No.F NDMC CHBS/Expul-86/107589388/Sec.5/2020/188587

Dated : 13/10/2020

In the matter of: -

The N.D.M.C.
Cooperative House Building Society Ltd.
Bal Vatika, Sukh Vihar, Delhi-110051
(through President/Secretary).....

.....Applicant

Versus

Jasbir Singh
76 First Floor, Sukh Vihar,
Delhi-110051

.....Respondent

ORDER

This order shall dispose of the application dated 26-12-2019 made by applicant society, bearing this office Diary No.51647 dated 31-12-2019.

The applicant society, made an application to this office for approving the action of expulsion of respondent under DCS Act and Rules, on the ground that said member indulging in anti society activities and since long running a RWA as Secretary of the society of the same and hindering the working of society. The applicant society issued expulsion notice to the member on Ref no. 31/2019 dated 10.09.2019. In pursuance to the served notice the respondent has filed the reply dated 18.09.2019 and the society was unsatisfied with the reply given by the respondent. The Managing Committee of applicant society vide its meeting dated 01.12.2019 resolved to expel the members from the membership of the society, and referred the matter to this office for seeking approval thereof, under DCS Act and Rules.

The matter was examined and proceedings were initiated under Section 86 of DCS Act, 2003. Accordingly, notices were issued to all the concerned for providing opportunity.

During hearing the claimant society submitted a document wherein it has raised various points against the respondent are as under:-

1. The Respondent illegally has constituted one Resident Welfare Association in the same locality wherein the respondent himself is a General Secretary.
2. The Respondent and his other office bearer of the said RWA are fully aware that as per provision of Rule 106(10) of DCS Rules 2007, the said RWA cannot be permitted to function where the society exists.



3. Earlier the respondent along with other residents filed a false complaint before the Ld. Registrar against the society for the closure of the society and transfer of all its assets to RWA and the service notice was manipulated by some members of the RWA and the society never received any notice from the office of Ld. Registrar regarding the said petition and in the absence of the society, the Ld. Registrar was pleased to appoint Mr. A Subramaniam as an Administrator who had taken over the charge of the society from the then office bearer of the society and the Ld. Administrator had gone through the working of the society and did not find any lapse on the part of the society. He concluded the election of the MC of the society as the same was due and held in September 2018.
4. The respondent contest the said election for the post of President along with his entire team for RWA for the different post.
5. The respondent and other office bearers have been harassing the office bearer of the society unnecessarily and they are not allowing the society to discharge its function properly.
6. On 10.09.2019 a show cause notice was given to the respondent on the following grounds which are being reproduced herein and the same are as follows:-
 - a. RWA at many stages has been obstructing the working of the society. Immediately after the election, society posted the trained security persons and requested you to withdraw the guards posted by RWA.
 - b. You being a member of the society were requested by the Administrator appointed by RCS to get laminated 6-8 maps/plans from the market against the cost of Rs. 1600 paid to you but you did not return the laminated maps/plans to the society despite of many requests.
 - c. You complained to MCD against the society in holding meetings by the society in the park with in the colony whereas the cultural programs/meetings were held by RWA under your secretary-ship at the same site resulting into harassment to the society and discomfort to all the resident of Sukh Vihar.
 - d. You had been a defaulting member and did not paid you dues.
 - e. You have been asking irrelevant information under RTI act to harass the society and diverting its working force towards nonproductive activities.
7. The reply of the show cause notice received was unsatisfactory.
8. Said reply was duly considered in the meeting of the MC held on 01.12.2019 and respondent did not attend the meeting.
9. The respondent has been expelled from the membership as per U/s 86 of DCS Act 2003.

In this furtherance the respondent filed the point wise reply are as under:-

1. It is wrong to mention that the RWA is illegally constituted, the RWA is a registered society as per the provision of law to carry out welfare activities for the residents of a House Building Society.
2. The society is a Cooperative House Building Society and not an Apartment owner's Association. Since society cannot perform any action which is not authorised or permitted in the objects of the society, the RWA has been formed to perform welfare activities of residents of the society.
3. Contesting the election of the MC of the society was the right of all the members and accordingly.

4. The society has failed to provide any evidence or document which can prove any harassment activity carried on by the Respondent.
5. The Respondent has never obstructed the working of the society and never received any money from any member of the MC of the society and never complaint to MCD etc. The Respondent has no overdue payments and has already paid all dues up to financial year 2019-20.
6. The Respondent has received a show cause notice dated 10.09.2019 from the society and its reply to the society was given. Except for this the society made no correspondence.
7. The MC meeting was alleged to have been held on 01.12.2019. The Respondent was not informed about the meeting it is false to mention that the Respondent was asked to attend this meeting.
8. No Opportunity was given to the Respondent against his expulsion from the membership of the society. It is false and is denied.

On perusal of reply submitted by both parties, It is pertinent to mention herein that RWA is not legal entity and as per rule 106(10) of DCS Rule 2007 "Any other organization such as Resident welfare Association or Apartments owner's Association by whatever name it may be called shall not be allowed to control or participate in the management of Cooperative Housing Complex".

On going through documents submitted and reply filed by both the parties, the respondent is directed to abide by the provisions of the DCS Act 2003 and Rules 2007 made thereunder and not to take part in any other Association and also not to obstruct the functioning of the society. The respondent has also furnished an undertaking in this regard during the hearing on 24.09.2020.

In the view of discussion, the record available in case file and observations made hereinabove, I am of the opinion that an opportunity also been provided to the respondent to remain a member of society and also advice to ask for any information from the society as per DCS Act 2003 and Rules 2007.

Hence, the expulsion of the respondent u/s 86 is rejected and 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. The President/Secretary, The N.D.M.C, Cooperative House Building Society Ltd. Bal Vatika, Sukh Vihar, Delhi-110051.
2. Sh. Jasbir Singh, 76 First Floor, Sukh Vihar, Delhi-110051.
3. Computer Cell.



(Ranjeet Singh)

Additional Registrar Cooperative Societies