

*“No carelessness until there is a cure Wear mask,
follow physical distancing & maintain hand hygiene”.*

**PUBLIC GRIEVANCES COMMISSION
GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
M-Block , I.P. Estate (near ITO) Vikas Bhawan: New Delhi-2
Order under Para 2(B) of the PGC Resolution No. F.4/14/94-AR/dt. 25.9.97**

Date of hearing: 07.04.2021

Complainant : Shri Gagan Sikka
Respondent : The Registrar,
Department of Cooperative Societies,
Govt. of NCT of Delhi.
Grievance No. : PGC/2020/A.II/RCS/03

1. Brief Facts of the Case

- 1.1 Shri Gagan Sikka, Member of Bhagwati Cooperative Group Housing Society Ltd. has filed a grievance in the Commission aggrieved by inaction of the Office of Registrar Cooperative Societies in respect of fraud/forgery committed by the Builder with the help of the Management Committee in connection with construction of homes and keeping 300 members suffering and deprived of their rights.

2. Facts emerged during the proceedings

- 2.1 Sh. Tariq Salam, Dy. Registrar, Office of RCS was present in the hearing and furnished a Status Report dated 01.04.2021 stating therein that:-

“1. It may be appreciated that the RCS office is mandated to discharge its functions under the provisions of DCS Act 2003 & DCS Rules 2007.

2. The Bhagwati Cooperative Group Housing Society was investigated by the CBI. Hon’ble CBI court, in its judgement dated 27.10.17 in case No.CBI-08/2016 (CBI vs. A.K. Chauhan & Ors.) has concluded that the Bhagwati Cooperative Group Housing Society in connivance with officials of RCS office dishonestly and fraudulently and on the basis of false and forged documents, managed to get the membership of 300 members approved by the RCS and on that basis, induced DDA to allot land to it. It is submitted that the decision of DDA to cancel the allotment by way of order dated 30.09.2020 is, therefore, squarely covered by Clause III of the lease deed because finding of the Ld.

Special Judge establishes that the very basis of allotment of land i.e. the list of members forwarded by RCS to DDA was vitiated by fraud, misrepresentation, misstatements and suppression. (copy of order dated 27.10.17 of CBI court at Annexure A and copy of order dated 30.09.2020 of DDA at Annexure B).

3. That the said Society against the lease cancellation order dated 30.09.2020 of DDA, has filed a Writ Petition in the Hon'ble Delhi High Court in W.P (C) No. 10033/2020 titled as Bhagwati Cooperative Group Housing Society vs. DDA & Anr. In the said Writ Petition, the respondent no.1 is DDA and respondent no.2 is RCS office and interalia praying for:-

A) Issue a Writ in the nature of certiorari or any other appropriate Writ quashing or setting aside the order dated 30.09.2020 passed by the respondent no.1/DDA cancelling the lease deed dated 12.02.2015.

B) Issue a Writ in the nature of Mandamus or any other appropriate Writ directing the respondent no.2/RCS to verify the existing list of genuine members of the Petitioner society within a time bound manner.

4. It is pertinent to mention here that in the judgement of Hon'ble CBI court dated 31.10.17 in case No.CBI-08/2016, the observations that the freeze list of 300 members in the said society got approved dishonestly and fraudulently on the basis of false and forged documents for obtaining allotment of land from DDA at subsidized rates, was neither challenged by the society nor its findings have been modified or reversed.

5. It is further submitted that out of initially enrolled 300 members, the membership in r/o 274 members has been changed and the society has not been able to provide requisite records pertaining to reasons for change in the said memberships. Further, the information submitted by the Society as to total number of members enrolled & transferred, resigned, expelled and rejected so far, is also contradictory as there is mismatch in total number of enrollments & transfer of memberships when compared with total number of resignations, expulsions and rejections.

6. The department has already filed its counter affidavit in the said W.P (C) No. 10033/2020 submitting that the prayer of the petitioner deserves to be rejected and impugned order dated 30.09.2020 of DDA cancelling the allotment of land to the Society deserved to be upheld. The next date of hearing in the Hon'ble Delhi High Court is 16.04.2021. It is submitted that since the current members of the society are claiming flats which have been constructed on illegally allotted land, it cannot be said that the findings of the Ld. Special Judge, CBI cannot have any bearing on them as allotting the

said flats to them would amount to perpetuating the illegality and fraud committed by the accused persons.

7. it is further submitted that once the allotment of land is found to be made on the basis of fraudulent list, there can be no occasion for the RCS to delve into the claims of the complainants herein for their entitlement for a higher category of flat.

8. it is further respectfully submitted that the complainants may, if they so desire, seek remedy under Section 70/71 of DCS act, 2003 for individual dispute redressal by filing arbitration suit with regard to their claim of entitlement for a higher category of flat over others.

9. In view of the case of society being subjudice in the Hon'ble Delhi High Court and in view of present facts and circumstances, it is humbly prayed that the said grievance may be ordered to closed accordingly."

- 2.2 Sh. Tariq Salam, Dy. Registrar, Office of RCS stated that the DDA has cancelled lease deed of said Society's plot vide its order dated 30.09.2020 and therefore, as the Society itself does not exist, the question of looking into allegations of the complainant against the Management Committee does not arise.
- 2.3 The complainant was present in the hearing and stated that his grievance is regarding diluting the membership of the Society by the Managing Committee of the Society in connivance with the builder by forging membership papers. The issue of cancellation of lease deed of Society cannot be linked with his grievance as they are the members of the Society since a long time back whereas new members are enrolled in the Society in a fraudulent manner and the judgement by the CBI court was passed keeping in view the forgery of new membership done by the Managing Committee of the Society. He has also submitted that 95 percent of the Society flats are already in place. He alleged that his grievance is pending with the department for a long time and since the year 2016, the department has not taken any action in the matter. Further, no inquiry was conducted in his grievance since the year 2003.
- 2.4 The RCS office has become completely infructuous as they failed in their duty to protect the rights of Society members/flat buyers who have invested their life long hard earned money in purchasing houses in these Societies. The Commission is completely frustrated by the department's attitude of non compliance of their orders. The respondent

department has proven ineffective in resolving the grievance of the complainant. The complainant has been running from pillar to post since last five years.

3. Directions

- 3.1 The RCS office is not able to redress any of the grievances/complaints which are being heard in the Commission. The department officials have rarely appeared in the hearings held in the Commission and whenever they have attended the hearings, officials from lower rank appeared, however, even they remain unaware of the facts of the case. The complainant's case has been lingering on since more than seven months. **However, the case being now subjudice in the Hon'ble Delhi High Court, the same cannot be heard in the Commission anymore.**
- 3.2 The complainant is advised to point out, the non cooperative and harassing attitude of the RCS office in resolving the genuine grievances of the Society members being in collusion with Builders of the Society, in the Hon'ble Delhi High Court so that justice shall be delivered in the matter.
- 3.3 With these directions, the case stands disposed of.

**(SMT. MADHU SHARAN)
MEMBER (PGC)**

No. PGC/2020/A.II/RCS/03

Dated:

1. The Registrar, Cooperative Societies, Govt. of NCT of Delhi, Old Court's Building, Parliament Street, New Delhi-110001.
2. Sh. Tariq Salam, Dy. Registrar, Cooperative Societies, Govt. of NCT of Delhi, Old Court's Building, Parliament Street, New Delhi-110001.
3. Sh. M.G. Sathya, Assistant Registrar, Cooperative Societies, Govt. of NCT of Delhi, Old Court's Building, Parliament Street, New Dehi-110001.
4. Shri Gagan Sikka