

GOVT. OF NCT OF DELHI,
OFFICE OF THE REGISTRAR CO-OPERATIVE SOCIETIES,
OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI-110001
(SECTION-VII)

No.F.47/1384/GH/Sec-7/Coop./2021

Dated:

ORDER

Whereas, Sarv Priya Mahajan Co-operative Group Housing Society Ltd., is registered with this Department vide Regn.No.1384/GH.

And whereas, in terms of Section 35 of Delhi Cooperative Act, 2003, the Government Shall appoint returning officer not below the rank of Gazetted officer or a retired Gazetted officer to conduct the election of a Co-operative Group Housing society has allotted land and draw of lots has not been conducted in accordance with the provisions of Section 77 and such Housing society as is awaiting of land. Further, the term of the office of the elected members of the committee is three years and thereafter the Committee shall arrange election of new committee before the expiry of its term and in case the committee fails to do so, the committee shall cease to hold office on the expiry of its term and affairs of Cooperative Society shall be managed by the Administrator appointed by the Registrar who shall also hold election within 90 days from the date of his appointment.

And whereas, in terms of Rule 53 of DCS Rules 2007, election of members of a committee of a Cooperative Society shall be conducted in the manner given in Schedule II.

And whereas, in terms of Schedule II of DCS Rules 2007, the committee or Board of a co-operative society shall meet at least sixty clear days in advance of the date of expiration of its term and by resolution determine the date, time and place for convening a general body meeting for conduct of election of its successor committee.

And whereas, in terms of the committee of a cooperative Group House society which has been allotted land and draw of lots has not been conducted in accordance with the provisions of section 77 and such housing societies as is a awaiting allotment of land, shall submit a copy of such Resolution to the Registrar, alongwith a request for appointment of Returning Officer for conducting the Election of the Committee by Registered Post or through personal delivery under acknowledgement.

And whereas, the election for the erstwhile Managing Committee of Sarv Priya Mahajan Co-operative Group Housing Society Ltd., was held on 06.08.2017 and the tenure of Managing Committee of the society has already been completed on 05.08.2020.

And whereas, President of the society vide his letter dated 22.06.2020 has informed that the tenure of present Managing Committee of the society is going to expire on 06.08.2020 and requested for appointment of Returning Officer as per DCS Act and Rules.

And whereas, the society failed to pass a resolution regarding election of successor committee and submit a copy of the said resolution to the Registrar Cooperative Societies alongwith the request for appointment of Returning Officer as is required in terms of clause I (i)(ii) of DCS Rules 2007.

And whereas, the office of Registrar Cooperative Societies, vide notification no. F.No.47/Policy/06/2020/79-88 dated 25.06.2020, keeping in view various guidelines and restrictions which remained/remain in force on account of COVID situation, notified the orders that the provisions relating to election of the term of office of elected members of the committee as contained in Section 35 of Delhi Cooperative Societies Act, 2003: shall apply to all the cooperative societies registered with the Registrar Cooperative Societies, Delhi with following modification:-

In all cases where the tenure of the committee expires between 15th January 2020 and 15th August, 2020 and where elections of the new committee of the society could not be conducted so far, the committee shall arrange election of the new committee by 15th October, 2020 and the tenure of the committee of these societies would accordingly stand extended till the election of the new committee.

And whereas, the society again failed to pass a resolution regarding election of successor committee and submit a copy of the said resolution to the Registrar Cooperative Societies alongwith the request for appointment of Returning Officer as is required in terms of clause I (i)(ii) of DCS Rules 2007.

And whereas, the society vide its letter dated 04.03.2021 requested for appointment of Returning Officer as per DCS Act and Rules.

And whereas, Hon'ble Supreme Court of India vide its order dated 08.03.2021 in Suo Motu Writ Petition (Civil) No. 3 of 2020 has directed as under:-

Satish Kumar
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In computing the period of limitation for any suit, appeal application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.

In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.

And whereas, the Limitation Act, 1963 is applicable for the limitation of suits and other proceedings and for the purpose connected therewith. It prescribes period of limitation for filing any suit, appeal or application. Further, the appointment of Returning Officer for conducting election in a Cooperative Group Housing Societies is governed by DCS Act, 2003 and DCS Rules, 2007 which provides for timeline for convening of election in the society.

And whereas, the tenure of the Managing Committee of the society has already been completed on 05.08.2020 and the extension granted due to various guidelines and restrictions which remained in force due to COVID-19 Pandemic to the societies where elections of the new committee of the society could not be conducted on time vide notification dated 25.06.2020 has also elapsed on 15.10.2020. This office vide order dated 15.04.2021 appointed Administrator-Cum R.O in the aforesaid society under Section 35(5) of DCS Act, 2003.

And whereas, the representation dated 16.04.2021 of the society in regard to recall the order dated 15.04.2021 whereby the Administrator/Returning officer has been appointed in Sarv Priya Mahajan Cooperative Group Society Ltd has been received in this office on 16.04.2021 and the same is not in consonance with the Act & Rules as well as various notification issued by this department during Covid- 19 pandemic for extension of time period for election in respect of Co-operative societies, the tenure of which have already been expired .

And whereas, presently there is no elected Managing Committee in the society.

Now, therefore, the Competent Authority is of the opinion that in view of the facts and circumstances the reasons raised in the representation dated 16.04.2021 submitted by Sarv Priya Mahajan Co-operative Group Housing Society Ltd. seem not to be appropriate and justified and hence not acceded to. The Administrator - Cum - R.O appointed under Section 35(5) of DCS Act, 2003 vide order dated 15.04.2021 stands legally valid and is hereby directed to join his duties in the society and conduct election of the Managing Committee of the society within a period of 90 days.

This order is being issued in compliance of the Hon'ble High Court of Delhi order dated 27.04.2021 in WP (C) No. 5020/2021 titled as Sarv Priya Mahajan CGHS Ltd Vs RCS.

This issues with the prior approval of the Competent Authority.

(SATISH KUMAR GUPTA)
ASSTT. REGISTRAR/Link Officer (sec.07)

No.F.47/1384/GH/Sec-7//Coop./2021/362-364

Dated:

Copy forwarded for information & necessary action to:-

1. Sh. Ajit Kumar, ARCS, Office of Registrar and Co-Operative Society, Old Court Building, Parliament Street, New Delhi-110001
2. The Ex-President/Secretary, Sarv Priya Mahajan Coop. G/H Society Ltd., 202, Vardhman Shopping Plaza, LSC, C-Block Market, Saraswati Vihar, Pitampura, Delhi-110034
3. The Asstt. Director(Computer Cell), O/o RCS, GNCT of Delhi with the request to upload this order on the department website.

Satish Kumar
4/8/2021
(SATISH KUMAR GUPTA)
ASSTT. REGISTRAR/Link Officer (sec.07)