

GOVT. OF NATIONAL CAPITAL TERRITORY DELHI
IN THE COURT OF THE REGISTRAR COOPERATIVE SOCIETIES
OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI-110001

No.120/GH/DR/Arb/2016-17/RCS/1472 -1477

Dated: 09/11/2021

In the matter of:-

Air Force and Naval Officers CGHS Ltd.

Sh. Natraj Paul & Ors.

VERSUS

Sh. S.K. Sharma

.....COMPLAINANT

.....RESPONDENTS

ORDER

This order shall dispose of the proceedings initiated against Sh. S.K. Sharma, vide Show cause notice dated 07.12.2017 under rule 20(2) and 54 (C) & (G) of DCS Rules, 2007.

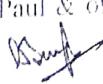
Whereas, complaints dated 15.11.2014 & 02.09.2016 have been received from Sh. Natraj Paul & Sh. S.S. Yadav resident of AFNO CGHS Ltd, Sector-07, Dwarka, New Delhi against Sh. S.K. Sharma, wherein it is alleged that Sh. S.K. Sharma(M. No. 528) member of AFNO CGHS Ltd. was functioning as Executive Director in M/s Sai Jyoti Infratech Pvt. Ltd. since 20.08.2013 and the said company is engaged in business of purchase, sale of houses and of land for construction of various types of houses, in the territory of Delhi NCR, which is a violation of provisions of DCS Act, 2003, DCS Rules, 2007 and Bye-laws of the society. Accordingly, Show Cause Notice dated 07.12.2017 u/r 20(2) and 54(c) & (g) of DCS Rules, 2007 was issued.

Whereas, the main ground for seeking disqualification is that the respondent is alleged to be a Director of a company dealing in sale and purchase of houses in NCT of Delhi, which is in violation of sub rule (2) of Rule 20 of DCS Rules, 2007.

Whereas, the respondent Sh. S.K. Sharma submitted that no such disqualification has been incurred as the Rule 20 of DCS Rules, 2007 deals with admission of member and notwithstanding disqualification mentioned in sub rule (1), the alleged disqualification is not attracted in his case as the possession of the flat was taken on 31.08.2000 and before that date right from his admission as member, he had not attracted any disqualification under DCS Act/Rules. Sh. S.K. Sharma also states that the company was formed by someone else in the year 2012 and he was inducted as Executive Director on 20.08.2013 while there was no business/balance sheet in the company as there were no properties in the company at all, on or after 31.03.2013, as there is no business and the company's capital was Rs. 1.00 Lac only by which no building activity either to purchase land or to sale of houses/flats or any construction activity can be carried and he was inducted only as an Honorary Director but without remuneration on friendly gratitude and the word Executive is just a misnomer. He has never drawn any allowance or reimbursement of any expense from the company.

Sh. S. K. Sharma also submitted that he is neither shareholder nor he is an agent or deriving any pecuniary gain in any manner whatsoever from the said M/s Sai Jyoti Infratech Pvt. Ltd. and he does not incur any disqualification nor violate any law in force nor any wrong declaration has been made by him.

Whereas, rejoinder has been filed by the complainants on the reply of Sh. S.K. Sharma, respondent, whereby the Sh. Natraj Paul & others have submitted that Sh. S.K. Sharma,



in his reply admitted that he was appointed as Executive Director w.e.f. 20.08.2013 in M/s Sai Jyoti Infratech Ltd, a company registered under Companies Act, 1956 and this company deals in sale, purchase of houses, land for construction of houses in NCT of Delhi. They also submitted that it is well settled law since 1866 that Directors are in the eyes of the law, are agents of the company as held by Court in case of Ferguson Vs Wilson. The complaints gave some other references of Court Orders in support of their claim. The complainants have also submitted that M/s Sai Jyoti Infratech Ltd. where Sh. S.K. Sharma is a Director, received Rs. 100000/- during the financial year 2013-2014 as a part consideration of sale/ purchase of house in Palam Area and the company also executed two GPAs in respect of properties in Uttam Nagar, New Delhi-110059.

Whereas, the Managing Committee of the society has submitted reply to the rejoinder of the complainants and stated that after allotment of flat, any member is free to pursue his profession and from Society's point of view, there is no objection.

Further, Sh. S.K. Sharma, filed reply to the rejoinder of the complainants Sh. Natraj Paul & Ors. and has refuted all allegations of the complainants and reiterated his earlier reply that he is only an Honorary Director in M/s Sai Jyoti Infratech Ltd. and have no shareholding in the company and hence no stakes in the company. He also states that he has not drawn any pecuniary or any other benefits from the company M/s Sai Jyoti Infratech which deals with construction of builder floor flats on small sized plots on collaboration basis and is in inactive stage for the last three years and his DIN also stands invalidated for similar period.

In view of the above and after perusal of the submissions/ arguments made by both parties, I am of view that if Sh. S.K. Sharma was not dealing with sale and purchase of properties at the time of enrolment he earns no disqualification under DCS Act, 2003 and Rules, 2007. There is no provision under the DCS Act and Rules which restrict any member from pursuing profession of their choice after initial enrolment as member and allotment of flat. The complaint petition is accordingly dismissed as devoid of merits.



[Signature]

(DEVINDER SINGH)

SECY. (COOP.)-CUM-RCS

Dated: 09/11/2017

No.120/GH/DR/Arb/2016-17/RCS/1472-1477

Sent to:-

1. President/Secretary, Air Force & Naval Officers CGHS Ltd., Plot No. 11, Sector 07, Dwarka, New Delhi-110075
2. Sh. Natraj Paul, R/o Flat No. 286, Air Force and Naval Officers CGHS Ltd., Plot No. 11, Sector 07, Dwarka, New Delhi-110075
3. Sh. S.S Yadav, R/o Flat No. 667, Air Force and Naval Officers CGHS Ltd., Plot No. 11, Sector 07, Dwarka, New Delhi-110075
4. Sh. S.K Sharma, R/o Flat No. 671, Air Force and Naval Officers CGHS Ltd., Plot No. 11, Sector 07, Dwarka, New Delhi-110075
5. Assistant Registrar Cooperative Societies (Section-1) O/o RCS.
- ✓ 6. Incharge Computer Cell to upload the order on the website of the Department.

[Signature]

(DEVINDER SINGH)

SECY. (COOP.)-CUM-RCS