

# OFFICE OF THE REGISTRAR COOPERATIVE SOCIETIES

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

No.F.2/Reader/SPL.RCS/Sec.86/2018/2046-2047

Dated : 29-12-2020

In the matter of: -

President/Secretary,  
Ordnance Cooperative Group Housing Society Ltd.  
Ordnance Apartment, H BLOCK, Vikas Puri, New Delhi-110018 .....Applicant  
Versus

Shri D.K.Goyal (Membership No.197),  
R/o Flat No. A-52, Ordnance Cooperative Group Housing Society Ltd.  
Ordnance Apartment, H BLOCK, Vikas Puri, New Delhi-110018 .....Respondent

## ORDER

This order shall dispose of the application dated 24.09.2018 made by applicant society, bearing this office Diary No. 42181.

I have gone through the contents of the file and knew about the context of the issues involved so far as expulsion of the respondent Sh. D.K. Goyal from the membership of the Ordnance CGHS, which had forwarded the case of Sh. D.K. Goyal ( Membership No. 197), Resident of Flat No. A-52, Ordnance CGHS, Ordnance Apartment, H-Block, Vikaspuri, New Delhi-18 for expulsion of his primary membership u/s 86 of the Delhi Cooperative Society Act, 2003 read with rule 99 of the DCS Rule, 2007.

The Ordnance CGHS has alleged that Sh. D.K. Goyal is regularly indulging himself in anti-society activities detrimental to the peace and tranquility of the society, in the backdrop of his misconduct and unruly behaviour the Ordnance CGHS issues three expulsion notices dated 10.02.2018, 09.04.2018 and 18.05.2018 to Sh. D.K. Goyal responded to these notice(s), however, the managing committee found the same unsatisfactory. Later on, the society had also given public notice in two daily newspapers i.e. "The Hindu" and "Veer Arjun" on 26.07.2018, whereby Sh. D.K. Goyal was requested to appear before the Managing Committee on 26.08.2018 at 11.00 a.m. however, he did not turn up.

It is further alleged by the Ordnance CGHS that the society vide its meeting of Managing Committee, held on 26.08.2018, unanimously resolved to expel Sh. D.K. Goyal from the primary membership of the society. The Managing Committee also authorised the President/Secretary of the Society to forward the case of expulsion of Sh. D.K. Goyal to the office of Registrar of Co-operative Society (RCS), Parliament Street, New Delhi for approval.

The notices were issued to both the parties for hearing regarding expulsion of membership of Sh. D.K. Goyal from the Ordnance CGHS on the intimation of the

management committee of the society. The case was heard from time to time and the parties had submitted their respective written argument. The worthy Additional RCS, finally heard the matter through video conferencing on 03.11.2020 and reserved for orders on the issue of expulsion from the membership of the Ordnance CGHS Society of Sh. D.K. Goyal.

Before proceeding further, the legal position for expulsion of a member from the CGHS is postulated herein below;

*"Expulsion of a member.*

*86. (1) Notwithstanding anything contained in this Act and the rules framed thereunder, the committee of a co-operative housing society may, by a resolution, expel a member on any one or more of the following grounds, namely -*

*(a) if he has been a persistent defaulter in respect of any dues of the co-operative housing society; or*

*(b) if he has willfully deceived the co-operative housing society by making any false statement or submitting any false document to obtain the membership of such co-operative society; or*

*(c) if he has brought disrepute to the co-operative society or has done any other act detrimental to the interest and proper working of the co-operative society :*

*Provided that no such resolution shall be passed unless the member concerned has been given an opportunity of being heard after service of three registered notices confronting the member with the grounds for his proposed expulsion :*

*Provided further that no member shall be expelled unless a resolution to that effect is passed by not less than three-fourths of the members of the committee present and entitled to vote at the meeting and no resolution for expulsion shall be valid unless approved by the Registrar.*

*(2) After the resolution for expulsion is passed as above by the committee, the resolution shall be referred to the Registrar for approval within a period of thirty days.*

*(3) On the receipt of the resolution for expulsion, the Registrar shall take cognizance of such resolution within thirty days and pass a final order either approving the expulsion or rejecting the proposal for expulsion within a period of one hundred and eighty days and if the matter is not decided by the Registrar within the aforesaid period, the expulsion of such a member shall be deemed to have been approved :*

*Provided that the Registrar, before approving the resolution, shall hear the parties concerned in the manner prescribed and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and compel them to give evidence on oath, affirmation or affidavit and to compel production of documents by the same means and as far as possible in the same manner as provided in the case of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) and the order under this section so passed by the Registrar, shall be final with a right for appeal before the Tribunal.*

*(4) Any party aggrieved by the order of the Registrar or deemed approval of expulsion, as the case may be, under sub-section (3) may, within sixty days from the date of such order, appeal to the Tribunal."*

I have gone through the above-mentioned provision of law and the entire paper book of this file and the submission of the respective counsels who advanced their final argument on 03.11.2020 through video conferencing.

On perusal of the previous records of this case of expulsion from the membership of Ordnance CGHS Society, it appears that it has chequered history of litigation at the Delhi Co-operative Tribunal (DCT). The Ordnance CGHS had initially vide its resolution dated 24.01.2013 in its management committee meeting had decided to initiate the proceedings of expulsion of membership of Sh. D.K. Goyal on the charge that he was indulging in an act which was detrimental to the interest and proper working of the society and also brought disrepute to the management by making false and frivolous complaints to various authorities. In pursuance to this resolution dated 24.01.2013, the management committee of the Ordnance CGHS had expelled Sh. D.K. Goyal in its resolution dated 07.11.2013, and had submitted the proposal to the RCS Office vide their letter dated 16.11.2013, which was received in the office of the RCS on 21.11.2013.

After receiving the proposal, the then Additional Registrar had passed an order dated 07.05.2014, as he was bound by the mandate u/s 86(1) of the DCS Act to act upon on the resolution of the management committee of the Ordnance CGHS, within 180 days. Vide the order dated 07.05.2014 the then Additional Registrar rejected the resolution of expulsion of the membership of Sh. D.K. Goyal and restored the membership of Sh. D.K. Goyal on the ground that the provisions of the DCS act and rules u/s 40 (i) and u/s 86 (1) (b) read with rule 99 doesn't apply on Sh. D.K. Goyal.

The Ordnance CGHS filed an appeal no. 120/2014/DCT before the Delhi Co-operative Tribunal vide its order dated 16.06.2015, had remanded back the case of expulsion of membership of Sh. D.K. Goyal, saying that the RCS is required to give cogent reasons to approve or reject the resolutions of expulsion of a member as the RCS had not followed the procedure laid down under u/s 86(3) of DCS Act, 2003.

In pursuance to the direction/order dated 16.06.2015, of the DCT the office of RCS i.e. the then Special RCS Sh. S.M. Ali, vide order dated 25.01.2016, observed and passed an order saying that he has gone through the documentary evidence placed on record and heard the oral arguments advanced by both the parties under the DCS Act and rules, it was further observed by the Special RCS saying that he dropped the expulsion proceedings initiated by the Ordnance CGHS against Sh. D.K. Goyal.

The Ordnance CGHS filed an appeal bearing no. 52/2016/DCT against the order dated 25.01.2016 passed by the Special RCS who had rejected a resolution for approval of the expulsion of the membership of Sh. D.K. Goyal from the society u/s 40(1) (b) and u/s 86(1) (b) of DCS Act, 2003 read with rule 99 of the DCS Rule, 2007. The Delhi Co-operative Tribunal (DCT) vide its order dated 12.01.2017 set aside the order dated 25.01.2016, passed by the Special RCS saying that the impugned order has been passed in mechanical way and speaking order is required to be passed by the Ld. Registrar i.e. the RCS and it was further observed by the Delhi Co-operative Tribunal (DCT) that the matter be remanded back for a fresh decision expeditiously.

Finally, vide order dated 17.04.2017 the then Special Registrar Sh. Indu Shekhar Mishra passed this order in compliance of the direction of the Delhi Co-operative Tribunal (DCT) and observed following aspects:

*"I have given my careful consideration to the proposal as well as the reply of the respondent and the law point involved in the present case. Section 86 lays down the procedure for expulsion of the member and rule 99 prescribes the manner in which the proceedings are to be conducted for expulsion of the member. In order to expel a member, there has to be compliance of the grounds mentioned under section 86. However, the grounds taken by the society are that he filed frivolous cases against the society and also filed frivolous complaints against the society and was also a defaulter. In my considered opinion, merely filing cases against the society will not make him liable to expulsion as a member who is having grievances cannot be denied to a member. As it is part of natural justice for getting the grievances redressed. As far as the issue of the default is concerned, in case a member is in default of the dues of the society after allotment of flat, then there is a provision under the DCS Act, 2003 for recovery of the dues of the society. Also the society couldn't prove the ground of misconduct of the member by way of evidence before me, Tus the present case is not maintainable.*

*In view of the above findings, the proposal of the society is hereby rejected as the act complained of is not detrimental to the interest of the society."*

Therefore, in the backdrop of the above-mentioned order of the then Special RCS the saga of expulsion of membership of Sh. D.K. Goyal from Ordnance CGHS stands closed and the fresh resolution of the management committee is nothing but abuse of process of law and it violates the principle of Res Judicata i.e. once a matter has already been looked into, the same cannot be raised. Moreover, the olive branch of law i.e. the principle of natural justice was afforded to the Ordnance CGHS at all times and they have had the opportunity of sufficient appearance and advanced their arguments at different levels of hearings before the office of RCS.

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.

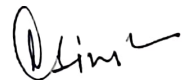


(Ranjeet Singh)

Additional Registrar Cooperative Societies

Copy to:

1. President/Secretary, Ordnance CGHS, Ordnance Apartment, H-Block, Vikas Puri, New Delhi-110018.
2. Sh. D.K.Goyal, Flat No. A-52, Ordnance CGHS, H-Block, Vikas Puri, New Delhi-110018.



(Ranjeet Singh)

Additional Registrar Cooperative Societies