

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

No. AR/Bkg/RCS/C.D. No. 107444967/2021/592-595 Dated: 08/02/2022

IN THE MATTER OF:

Jain Cooperative Bank Ltd.,

.....Complainant

Versus

Shri Shashank Jain, Ex-Director

.....Respondent

ORDER UNDER SECTION 66(2) OF DCS ACT 2003

By the present Order the proceedings initiated under section 66(2) of the DCS Act 2003 against Sh. Shashank Jain, Ex-Director of Jain Cooperative Bank Ltd., vide Show Cause Notice F.No.AR(BKG)/RCS/2018/308 dated 14.12.2017 issued by the then Registrar Cooperative Societies shall be disposed off.

BRIEF FACTS OF THE CASE

A complaint DATED 09.06.2017 was filed by Jain Cooperative Bank Ltd. to the Office of Registrar Cooperative Societies vide letter no. JCB/HO/2017/CH-312 dated 09.06.2017 alleging that Sh. Shashank Jain, Ex-Director of the Jain Cooperative Bank Ltd. had recommended forged loans to two persons. Explanation was sought from the Bank as to why no action was initiated since 2011.

Jain Cooperative Bank Ltd. submitted the reasons as to why no action was initiated in the matter since 2011. Jain Cooperative Bank Ltd. vide their letter dated. 27.10.2017 submitted that when these loans were given, Sh. Shashank Jain, Ex-Director was the member of the Board of the Bank and he pressurized the management not to take any action in this regard. It was further informed that when this matter was discussed in the Board Meeting he broke the glass on his head and made a fake complaint and called the Police to pressurize the then management. When Police Department examined the CCTV footage of the Board Meeting, true facts came to the knowledge of the Police

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Department and action was taken against Sh. Shashank Jain and he was arrested under Section 107/151.

Thereafter, Administrator was appointed in 2012 to supervise the bank and no one brought this matter before him. The present management was elected in July 2016 and took charge of the Bank in July 2016. As and when this matter came to the knowledge of the management, the complaint was made to the office of the RCS with the request to conduct Inspection under Section 61 of Delhi Cooperative Societies Act, 2003 & submitted copies of membership forms of the two members along with copy of loan forms of these two members & RBI Guidelines.

INSPECTION UNDER SECTION 61 OF DCS ACT 2003:-

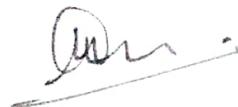
Special RCS took cognizance of the complaint and issued Show Cause Notice under Section 61 of the Delhi Cooperative Societies Act, 2003 on 14.12.2017 to both the parties and called upon Sh. Shashank Jain to Show Cause within 10 days from the date of the issue of the notice as to why Inspection under Section 61 should not be conducted, with an opportunity of personal hearing on 26.12.2017. After hearing it was concluded that there is a need of proper Inspection as per provisions of Section 61 of Delhi Cooperative Societies Act, 2003. Hence, Sh. Sanjay Sharma, Addl. Dy. Commissioner (SMCD) was appointed as Inspection Officer under Section 61 of the Delhi Cooperative Societies Act, 2003 vide order No. AR(BKG)/RCS/2018/59-62 dated. 19.01.2018.

INSPECTION REPORT UNDER SECTION 61 OF DCS ACT 2003:-

Sh. Sanjay Sharma, Addl. Dy. Commissioner (SMCD) submitted his Inspection Report dated 20.4.2018 and recommendations on the basis of complaint dated 09.06.2017 of Jain Cooperative Bank Ltd. It was enumerated in the Inspection Report that:-

GIST OF COMPLAINT:-

The complaint made by the Bank against Sh. Shashank Jain, Ex-Director comprises of the following allegations:



- (a) Major irregularities were carried out by Shri Shashank Jain, Ex-Director by recommending two hypothecation loan against the guidelines of the Reserve Bank of India (RBI) which clearly stipulated that the Directors should not sponsor a loan proposal, buildings and sites for bank's premises, enlistment or empanelment of contractors, architects, doctors, lawyers, etc.

Shri Shashank Jain, made members with his recommendations and also made recommendations for loans to them. The recovery of said loans has not been made till date. Details of the loans are as under:-

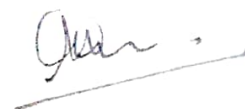
" Shri Shashank Jain recommended hypothecation loan to Shri Anand Singh (Membership No. 42864) and Shri Sanjay Tiwari (Membership No. 42865) as is evident from his recommendation made on the loan files in the year 2010. (Date of Sanction 18.03.2010)."

The then CEO wrote letters to him on 21.04.2011 and 02.06.2011 in respect of both the above accounts requesting him to use his influence on the borrowers and get the loan accounts liquidated, as those loan accounts were recommended by him and were categorized as critical NPAs.

The Board of Directors of the Bank had already passed a resolution unanimously to take action in this regard in compliance of RBI's directives in the matter. RBI has already given directions to the Bank vide Letter No. 281/1214/07/2017-18 dated 25.07.2017 for taking action Shri Shashank Jain for his recommendation of loan which was in the violation of RBI guidelines issued vide circular no.: 2/14.C.1.062/2015-1 dated 01.07.2017 and submit action taken report to them.

CONCLUSION OF INSPECTION REPORT UNDER SECTION 61 OF DCS ACT 2003.

"The Advocate of Shri Shashank Jain submitted the reply in which he stated about the differences between the Ex-Chairman, Ex-Vice Chairman and Shri Shashank Jain in the year 2010-12. Unfortunately, his submission has failed to put his defense forward against the allegations leveled against him in the complaint of the bank. He tried to circumvent his submission without any proof, tried to mislead the inspecting authority wherein he agreed that he recommended the loan and

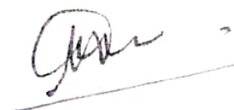


the same was approved by board of director. He himself has corroborated the allegation of recommendation of the Chairman Shri Pawan Kumar Jain knowing all facts. Hence chairman Shri Pawan Kumar Jain is responsible for violating of RBI Guidelines.

1. Loan was sanctioned by violating RBI guidelines as special case by the Chairman Shri Pawan Kumar Jain knowing all facts. Hence Chairman Shri Pawan Kumar Jain is responsible for violating of RBI Guideline.
2. Shri Shashank Jain knowingly with all his consciousness without under any duress and pressure used his authority such as he made member with his recommendation and thereafter he recommended the loan by violating RBI Guideline. Despite the fact that at the time of granting both loans it was made clear to defaulting members and the then Director Shri Shashank Jain who recommended the loan and used his influence in sanctioning the loan that as the area of operation of the Bank is Delhi only, the vehicle should be registered at Delhi only and only on the basis of that M/S Sanya Automobiles Pvt. Ltd, supplied a Delhi Registration Number to the Bank.

That having known about the above fraud as played upon the Bank; the officials of the bank visited the given addresses of both the defaulting members. It was revealed that they were not available at the address given in their application form.

From the above it is clear that the above said both loanee have played a fraud upon the Bank and got a vehicle financed by the Bank. Later on got the vehicle registered with RTO, Baghpat, Uttar Pradesh in place of RTO, Delhi. They also got the same registered as Taxi in place of personal use. The bank issued letters to Shri Shashank Jain on 21.04.2011 and 02.06.2011 in respect of both the above accounts requesting him to use his influence on the borrowers and get the loan account liquidated, as those loan accounts were recommended by him and were categorized as critical NPA from this bank suffered loss of (Rs.3,85,000/- + Rs.3,85,000/-) plus interest in both cases as amount not recovered till date.



3. The papers and records prove clear intentional dishonesty and siphoned of fund on account of forged loan of Rs.7,70,000/- + interest till date by Sh. Shashank Jain and violation of guideline issued by RBI by Shri Pawan Kumar Jain the then Chairman and Shri Shashank Jain the then Director."

The Inspection Report was sent to the complainant Bank for comments by the Office of Registrar Cooperative Societies. The complainant Bank, on the basis of the Inspection Report, requested the Office of Registrar Cooperative Societies to initiate Inquiry under Section 66(1) of the DCS Act, 2003 vide letter No.JCB/HO/5728/18 Dated. 23.05.2018.

Thereafter, Sh. M C Jha, Jt. Director (Retd.) Indian Railways was appointed as the Inquiry Officer under Section 66(1) of DCS Act, 2003 vide order F.No.AR(BKG)/RCS/2018/308 dated. 07.06.2018.

INQUIRY UNDER SECTION 66(1) OF DCS ACT 2003 :-

Sh. M C Jha, Jt. Director (Retd.) Indian Railways, Inquiry Officer after granting adequate opportunities to the parties during the course of inquiry proceedings submitted an Inquiry Report u/s 66(1) vide letter dated 28.9.2018.

CONCLUSION OF INQUIRY REPORT UNDER SECTION 66(1) OF DCS ACT 2003:-

"As Sh. Shashank Jain, Ex-Director has himself confirmed his signature and he has recommended the membership of Sh. Anand Singh and Sh. Sanjay Kumar Tiwari hence, the charges framed against him is proved. So far as sanction of loan to Sh. Anand Singh and Sh. Sanjay Kumar Tiwari is concerned, as per bank records, Sh. Shashank Jain, Ex-Director was the member of the Loan Sub Committee and the Recovery Sub Committee and did not respond to the request of the bank for recovery of loan and as per the submission of the bank representative present in the enquiry that it is the responsibility of the Director to whom he has recommended for membership for recovery

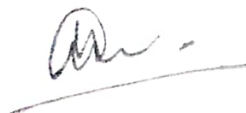
of loan also. The records reveals that there is clear intentional dishonesty and siphoning of funds on the account of forged loans amounting to Rs.7.70 lakh along with interest till finalization/ recovery of loan till date. The guidelines issued by Reserve Bank of India have been violated. Thus the charge leveled against Sh. Shashank Jain, Ex-Director is proved."

PROCEEDINGS UNDER SECTION 66(2) OF DCS ACT 2003:-

On the basis of the Inspection Report under section 61 of DCS Act 2003 & Inquiry Report under section 66(1) of DCS Act 2003, Registrar, RCS Delhi took cognizance and issued Show Cause Notice to Sh. Shashank Jain, on 22.05.2019, under Section 66(2) of DCS Act, 2003 read with Rule 83 of DCS Rules, 2007 and called upon Sh. Shashank Jain, Ex-Director, to show cause as to why appropriate action should not be taken against him under Section 66(2) of DCS Act, 2003 and gave him ten days time from the date of issue of the notice with an opportunity of personal hearing on 07.06.2019.

The matter could not be taken up on 07.06.2019 and next date was fixed for hearing on 10.07.2019. The defendant Sh. Shashank Jain, Ex-Director was present on 10.07.2019 along with Advocate Sh. Rajeev Jain, proxy Counsel for Advocate Sh. Anil Kumar. The Complainant Bank was represented by Sh. Gurpreet Singh. The defendant obtained the copies of the documents as required for his defense. After obtaining the requisite documents Sh. Shashank Jain agreed to file his reply on or before 31.07.2019 after serving a copy of the same to the Bank. The case was fixed for further proceedings on 31.07.2019. On 31.07.2019, the case was adjourned for 26.08.2019.

Sh. Shashank Jain, Ex-Director along with his Advocate Sh. Anil Kumar was present on 26.08.2019. Representative of the Bank was also present. Ld Advocate Sh. Anil Kumar, for the Defendant confirmed that he has already received the copy of the Inquiry Report under Section 66(1) and has also inspected the file to obtain other requisite documents including the Inspection Report under Section 61 of DCS Act, 2003. He submitted his vakalatnama and sought two weeks time to file the reply. The case was adjourned for 19.09.2019. The case was adjourned several times on 16.10.2019, 15.11.2019, 27.11.2019, 17.12.2019, 20.01.2020, 20.02.2020 and 19.03.2020 due to Administrative exigencies. Thereafter the case could not be taken up due to Corona. Then the matter finally came up for hearing on 04.03.2021.



On 04.03.2021, both the parties were present. Advocate Sh. Rajeev Jain, Ld Counsel for defendant submitted that they have not been supplied with the copy of the report of the I.O. under Section 66(1) of DCS Act, 2003 based on which the proceedings were initiated under Section 66(2) of DCS Act, 2003. It was again directed by the RCS that a complete report under Section 66(1) along with its annexures be provided to Sh. Rajeev Jain within next 15 days. Case was adjourned for 11.05.2021.

Matter was not taken up due to Covid till 15.09.2021.

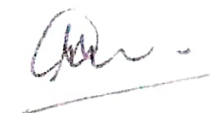
On 15.09.2021, Sh. Sanjay Sethi, Legal Advisor of Jain Cooperative Bank Ltd./Complainant along with Sh. Gigranj Sharma, Legal Record Clerk were present. Sh. Shashank Jain, Ex-Director defendant was present in person along with Ld Counsel Sh. Rajiv Jain. Defendant's Advocate again submitted that the defendant has not been supplied with copy of the report of the IO under Section 66(1) of DCS Act, 2003 along with request that the matter be fixed after 10.10.2021 in view of Jain Paryushan Parv Daslaxn so that he may get reasonable time to obtain requisite report, go through it and file reply but it was observed by the Court that report under Section 66(1) had already been provided to the defendant when he was present with his other Counsel in the hearing on 26.08.2019. The Ld. RCS duly directed the defendant Advocate to file the vakalatnama and obtain the report before the next date of hearing positively and further advised to get in touch with the former Counsel of the defendant and get the report and other related documents of the case. The request of defendant Advocate to adjourn the case was accepted and the matter was adjourned to 14.10.2021.

On 14.10.2021, the case could not be taken up and matter adjourned for 29.10.2021.

On 29.10.2021, Sh. Sanjay Sethi, Legal Advisor of Jain Cooperative Bank Ltd./Complainant & Sh. Rajeev Jain, Advocate of Sh. Shashank Jain, Ex-Director/Defendant, were present. The Ld Advocate of the defendant confirmed the receipt of all supporting documents & submitted a detailed reply which was taken on record and copy of the same was provided to the representative of the Bank. Case was adjourned for 15.11.2021 for Bank reply/rejoinder and final arguments.

On 15.11.2021, the case was again not taken up due to pollution crisis in Delhi.

On 14.12.2021, Ld Advocate Sh. Rajeev Jain of Sh. Shashank Jain, Ex-Director/Defendant was present. Advocate Sh. Ankit Gupta along with Sh. Sanjay Sethi for the Jain Cooperative Bank Ltd./Complainant were present. Both the Ld



Counsels requested that court may please pass orders u/s 66(2) of DCS Act 2003 after considering all the previous inspection and inquiry reports. Arguments from both the parties were heard at length and the case was kept for orders.

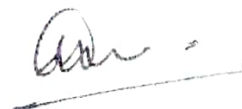
DEFENDANT'S REPLY/ARGUMENTS

It has been stated therein that the Inspection Officer did not do justice with the respondent and never given any opportunity to him in his defense and concluded the inspection on the basis of presumptions made by the complainant in their complaint. The Inspection officer did not decide the objections made by the respondent before him and as the present Chairman Sh Rajesh Kumar Jain have some differences therefore the present inspection is nothing more than politics vendetta. The allegations levelled against the respondent cannot be adjudicated before this forum u/s 61/66 because the matter pertains to the fraudulent activities committed by the two members of the bank during obtaining the loan from the complainant bank in 2010. The matter is time barred also in light of section 70 and beyond purview of Limitation Act.

The Inspecting official was under the opinion that both the loanees availed the loan from the complainant bank on the recommendation made by the respondent, however, respondent never made any recommendation for the said loans because the respondent was nothing more than a director in the bank and the loans were granted to members as per the policy of the bank and then rules were framed for the purpose.

Inspecting Officials also failed to make a difference between the "Introduction & Recommendation". He outrightly stated in his conclusion that respondent recommended the said two loans and he is sole responsible for the amount which is outstanding against them. No document was placed before him to prove that respondent recommended any loans.

The respondent herein was not empowered to sanction any type of loan because the loan sanctioning power was under the then chairman and this fact was also brought into the notice of the Inspection Officer. The Inspection Officer never bothered to go through bank records and loan files in question and never matched the signature of the respondent those were put in pink ink on loan forms. The administrative part from loan form depositing to disbursing the loan was absolute duty of the staff members, so if any mistake was committed on the part of the staff during the process of loan disbursing cannot be subrogated to the respondent.



The complainant also tried to recover the amount from the borrowers in question u/s 70/71 of DCS Act 2003 and when they failed to file the case under Cr.P.C. against fraudulent borrowers as per Law then they have chosen this way to subrogate the entire liability upon the respondent in the light of section 61 & 66.

The brief details submitted by the bank in the matter of Sh Anand Singh, borrower are self explanatory on page no.1 of report u/s 66(1) in which the complainant stated that after completion of due process of loan sanctioning and after obtaining all relevant documents from the borrower and his sureties a loan of Rs.3,89,295/- was disbursed to Sh Anand Singh and a bank draft was issued in favour of M/s Sanya Automobiles Pvt Ltd on 12.03.2010 and second cheque on behalf of another member namely Sh Sanjay Tiwari was also issued for Rs.3,85,000/- for purchasing the vehicle. Both the bankers cheques were remitted to the authorized dealer of the vehicle and same has been encashed by the vehicle dealer then how can be respondent responsible for this transaction. Enquiry Officer also failed to go through bank record that who delivered the cheque of loan to vehicle dealer and also never bothered to enquire that how and why the said vehicles registered with the RPO of UP. The complainant is running the affairs of the managing committee since 2016 then why criminal complaint has not been registered against the borrowers. The complainant is not interested to recover he bank dues from the culprit borrowers even in the light of said incident they are settling personal scores which is bad in the eyes of law.

The relevant documents have not been supplied to the respondent during Inquiry by the complainant. The enquiry Officer failed to make a difference between "Introduction & Recommendation" however the defendant was under the obligation to introduce the member who comes before him or sent by his colleagues being a member of society as well as Director of the bank. Inquiry Officer failed to establish the relation or any monitory benefit between the borrowers and defendant.

That the entire record was under the possession of the complainant Bank and defendant was under the apprehension that somebody who may be near and dear of the complainant put his name on the loan file in pink ink to twist the material facts to turn the enquiry against the defendant herein. Enquiry Officer never decided the objections raised by the defendant during the enquiry proceedings and also could not understand the gravity of this matter, however, the act has been done by the complainant, may be prosecuted under the provisions of Section 118 of DCS Act but the Enquiry Officer did not bother to decide the same and saved the complainant.



Enquiry Officer under Section 66(1) concluded that the membership was recommended by the defendant is not true because this is not a recommendation and merely it is an introduction which has been made by the respondent. It is pertinent to mention here that if introduction is the basis to decide the liability then including the present management and all the past management since 70 years are responsible for every NPA loan because all the members were introduced by the director of the complainant bank including the deceased father of present chairman. That the present enquiry is based upon the complainant made by the complainant to stop the defendant from contesting the elections, who may be a rival candidate against the Chairman in forthcoming election of the Bank.

The respondent prayed that the present proceedings under Section 66(2) on the basis of 66(1) of the DCS Act, 2003 may kindly be dropped against the defendant, in the interest of justice.

REPLY/ARGUMENTS OF COMPLAINANT JAIN COOPERATIVE BANK LTD.,

The Bank has stated that Sh. Shashank Jain, Ex-Director of Jain Cooperative Bank Ltd. not only introduced the members but also recommended the said loan account holders to make them members of the Bank. This fact can be verified from membership forms and in a very short spell, Hypothecation Loans were sanctioned with bad intentions/willful negligence without completing all required codal formalities as per the Reserve Bank of India guidelines.

Further, the Loan Forms itself narrates all the fraudulent game behind the sanctioning of these loans. Reserve Bank of India circular clearly says that any Director should not influence any loan proposal. These loan accounts turned NPA & public hard earned money deposited in the Bank was siphoned with malicious intention and cause a loss of a huge amount of i.e. Rs. 7,70,000/- + Interest up to 30.11.2021 i.e. Rs. 32,89,923/-

These facts were furnished during the Inspection & Inquiry proceedings which have been taken on record by the Hon'ble Inspecting Officer & Inquiry Officer. It was prayed that surcharge/recovery orders was required to be passed and the respondent may be directed to pay misappropriated amount sum of Rs.32,89,923/- along with 18% P A Interest from 01.12.2021 upto the date of realization of payment to Bank.

CONCLUSION OF PROCEEDINGS UNDER SECTION 66(2) OF DCS ACT 2003:-

I have heard the arguments of both the parties at length. I have carefully gone through the Inspection Report under section 61 of the DCS Act 2003, Inquiry Report under section 66(1) of the DCS Act 2003 and all the documents and material placed on record by both the parties.

From the perusal of the Inspection Report under section 61 of DCS Act 2003 and Inquiry Report under section 66(1) of DCS Act 2003 it is clearly made out that:-

- i. Sh Shashank Jain, Ex-Director of Jain Cooperative Bank Ltd., first recommended the membership of Sh. Anand Singh and Sh. Sanjay Kumar Tiwari.
- ii. Sh. Shashank Jain, Ex-Director was the member of the Loan Sub Committee and the Recovery Sub Committee.
- iii. Sh Shashank Jain, Ex-Director of Jain Cooperative Bank Ltd. further recommended the loans to Sh. Anand Singh and Sh. Sanjay Kumar Tiwari, which have been utilized for purposes other than for which they were granted.
- iv. The loans were recommended in violation of RBI guidelines.
- v. Sh Shashank Jain, Ex-Director of Jain Cooperative Bank Ltd. did not respond to the requests of the Bank for recovery of loan and made no efforts for their recovery.
- vi. The loans were subsequently categorized as critical NPAs.

In view of the above, the acts of recommendation of membership of two persons and subsequent recommendation of loans of Rs.3,85,000/- each to these two persons by Sh Shashank Jain, Ex-Director of Jain Cooperative Bank Ltd. falls under category of " having caused deficiency in the assets of the co-operative society by breach of trust or willful negligence."

Nothing has been placed on record by any of the two parties to show that Inspection Report under section 61 or the Inquiry Report under section 66(1) of the DCS Act 2003 have been stayed or have been set aside till date.



In view of all of the above, I deem it fit to proceed and order under section 66(2) of the DCS Act 2003.

I hold that Sh. Shashank Jain, Ex-Director of Jain Cooperative Bank Ltd., is responsible for causing loss to the complainant Bank for a sum of Rs. 7,70,000/- (Rupees Seven Lakhs and Seventy Thousand only) being squarely covered under Section 66(1) and 66(2) of DCS Act 2003.

In view of the above and in exercise of the powers delegated and conferred upon me under Sub-Section(2) of Section 66 of DCS Act, 2003, I hereby direct Sh. Shashank Jain, the Ex-Director to pay within 30 days an amount of Rs.7,70,000/- to Jain Cooperative Bank Ltd. along with simple interest @ 8% per annum with effect from the dates of disbursement of these loans up to the date of realization of the said amount.

It is ordered accordingly.


08/02/2022
(Dr. T. Philip Thanglienmang)
Special Registrar Cooperative Societies

Copy to:-

1. Sh. Shashank Jain, Ex-Director, Jain Cooperative Bank Ltd., through Chairman/CEO of Jain Cooperative Bank Ltd., 80 Darya Ganj, New Delhi-110002
2. Chairman/CEO, Jain Cooperative Bank Ltd., 80 Darya Ganj, New Delhi-110002
3. AR(Banking)
- ✓ 4. In-charge (Computer Cell) for uploading on website


08/02/2022
(Dr. T. Philip Thanglienmang)
Special Registrar Cooperative Societies