

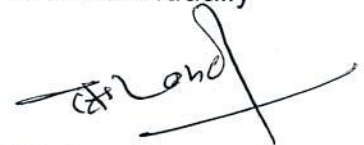
GOVT. OF N.C.T. OF DELHI  
OFFICE OF THE REGISTRAR COOPERATIVE SOCIETIES,  
PARLIAMENT STREET, OLD COURT BUILDING, NEW DELHI-01

F. No. 47/RCS/Policy/2010/Part File-II/ 30 - 34

Dated:- 12/04/22

Sub: - Minutes of meeting of Rule 90 Committee held on 05.04.2023 at 12:00 Noon.

I am directed to enclose herewith the copy of the minutes of Rule 90 Committee meeting held on 05.04.2023 at 12:00 NOON for necessary action at your end. Intimation may also be sent to the concerned members individually



ASST. REGISTRAR (POLICY)

F. No. 47/RCS/Policy/2010/Part File-II/30 - 34

Dated:- 12/04/23

Copy for necessary action to:-

1. P. S. to Pr. Secretary (Cooperation)
2. P.S. to Registrar Cooperative Societies.
3. P.A. to Spl. Registrar Cooperative Societies/ DRCS
4. Assistant Registrar (Section- 4 & 8)
5. In-charge (Computer Cell) to upload the minutes held on 05.04.2023 at 12:00 Noon on the RCS website.



ASST. REGISTRAR (POLICY)



**GOVT. OF NCT OF DELHI**  
**OFFICE OF THE REGISTRAR COOPERATIVE SOCIETIES**  
**OLD COURT BUILDING, PARLIAMENT STREET NEW DELHI**

MINUTES OF THE MEETING OF THE COMMITTEE CONSTITUTED UNDER RULE 90 OF DCS RULES 2007 held on 05.04.2023 at 12.00 noon under the chairmanship of the Principal Secretary (Cooperation), Govt. of NCT of Delhi.

The following officers/members of the committee attended the meeting:

- |       |  |             |
|-------|--|-------------|
| i).   | Sh. A.K. Singh, Pr.Secretary (Cooperation)   | Chairperson |
| ii).  | Sh. Krishan Kumar, Registrar Cooperative Societies   | Member      |
| iii). | Sh. Puneet Nagpal, Addl. Secretary, Law Department   | Member      |
| iv).  | Sh. Gopal Mishra, Controller of Accounts, Finance Dept.  | Member      |
| v).   | Sh. Pradeep Kumar, Dy. Registrar (RCS Department)<br>in place Dr. T. Philip Thanglienmang, Spl. RCS on leave | Member      |

**Agenda No. 1: Talagang CGHS Ltd.(Reg. No. 799/GH**

RCS stated that verification of membership of Sh. Krishan Kumar Chaudhary (M.No. 727) of Talagang CGHS Ltd has not been completed. Therefore, at this stage, can not be recommended to place before the committee in accordance with DCS Act, 2003, DCS Rules, 2007 and bye laws of the cooperative society as required under Section 77 of DCS Act, 2003 read with Rule 90 of DCS Rules, 2007. Therefore, agenda item stands withdrawn and was not taken up by the Committee.

**Agenda No. 2: Modern CGHS Ltd.**

Membership clearance case of Sh. V.K. Jain (Ms. No. 159)

It has been apprised by the Assistant Registrar of the Section concerned that the freeze strength of the society is 223 out of which 214 cases have already been cleared from time to time and sent to DDA for draw of lots. The case presently under consideration relates to the membership clearance of one member i.e. Sh. V.K. Jain (Ms. No. 159) in Modern CGHS Ltd.

The Assistant Registrar has apprised that the membership of Sh. V.K. Jain has been upheld by the Hon'ble High Court as well as Hon'ble Supreme Court. Hon'ble Supreme Court of India in the Contempt petition (Civil) No. 1505-1506/2017 in SLP (Civil No.10375-10376/2017) in the matter of

*Puneet Nagpal*  
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*[Signature]*  
*[Signature]*  
*[Signature]*  
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Santlal Gupta &Ors. Vs. Umesh Kumar Jain &Ors. vide 12 (a) of said order dated 08.05.2019 had observed as follows:-

*"All the alleged contemnors shall vacate their respective apartments on or before 31.08.2019. The apartments so vacated shall thereafter be allotted to those persons who were directed to be re-admitted as members in terms of para 9 of the order passed by the Registrar, Cooperative Societies on 24.02.2012. The allotment shall be done in the present of an Official from the office of the Registrar, Cooperative Societies in a manner known to law."*

Besides Sh. V.K. Jain has filed Contempt petition No. 426/2017 before the Hon'ble High Court seeking allotment of flat in Modern CGHS Ltd. Hon'ble High Court vide its order dated 08.12.2022 has directed the petitioner to deposit the outstanding amount to the society and in turn the Registrar and society are directed to complete the formalities for handing over possession of the flat to the petitioner within a period of four weeks. Hon'ble High Court vide its subsequent order dated 13.03.2023 has further observed that in case the present Administrator of the society is unable to provide the documents as required in paragraph 3(d) (viz. affidavits in statutory forms, application for membership, original share money receipt and three years residence proof of the member) the respondent will dispense the requirement of the said documents and complete the formalities of the allotment. Hon'ble High Court further directed the committee to comply with the orders of the court. The next date of hearing in this matter is fixed on 19.04.2023. The operative part of order dated 13.03.2019 passed by Hon'ble High Court in CP No. 426/2017 is reproduced as under:-

*"This Court has perused the list of documents/information which have been enlisted in paragraph 3(d). The insistence of the documents at this belated stage does not appear to be well founded and gives an impression to this Court that the Respondent No.1 is dragging its feet. This Court has been apprised that a new administrator has been recently appointed and for this additional reason, the insistence on the said documents is bound to indefinitely delay the compliance. Similarly, the condition at paragraph 3(c) as per the learned senior counsel for the Petitioner is inapplicable to the facts of this case and is in the teeth of the judgment and order dated 08.05.2019 passed by the Supreme Court.*

4. After some arguments, learned standing counsel for the Respondent No.1 states on instructions from Respondent No.1, who is present in Court that in case the present Administrator of the society is unable to provide the documents as required in paragraph 3(d), the Respondent will dispense with the requirement of the said documents/information and complete the formalities for allotment in favour of the Petitioner and hand

*Umesh Kumar Jain*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*



over the possession to the Petitioner within a period of ten days. He also states that the condition of paragraph 3(c) will not be insisted upon.

5. He states that the Respondent No.1 will refer the matter to Committee constituted under Rule 90 of Delhi Co-operative Societies Rules, 2007, within a period of 10 days without any further default.

6. The Committee is directed to comply with the orders of this Court within a period of 07 days from the receipt of the reference from the Respondent No.1.

7. In case the orders passed today are not complied with, the Respondent No.1 is directed to remain present in Court on the next date of hearing.

8. List for compliance on 19.04.2023.”

The Committee was further apprised that membership clearance in respect of three (03) members of the society has already been accorded earlier on the basis of orders passed by Hon'ble Supreme Court. However, the case of Sh V.K.Jain was not considered at that time as some complaints of dual membership in respect of Sh V.K.Jain and some other members of the society in Rikki CGHS Ltd (in addition to Modern CGHS Ltd) was pending with the department. The Registrar of Cooperative Societies vide its order dated 02.09.2022 has observed that Rikki CGHS Ltd is a defunct/non-functional society and further cancelled the membership of all the respondents/members in Rikki CGHS Ltd.

The Committee carefully considered the facts of the case and various orders of the Hon'ble High Court and Hon'ble Supreme Court of India as brought out in the Agenda placed before the Committee. The Committee is of the view that despite the fact that Hon'ble High Court vide order dated 13.03.2023 in CCP No.426 of 2017 has directed the RCS respondent No.1 in that matter to dispense with certain documents required as per Rules, it is a fact neither RCS nor the Rule 90 Committee has any legal mandate to exempt operation of any provision of DCS Act 2003 or DCS Rules 2007. The RCS may in consultation with Law Department, place the facts of the case and the orders of the Hon'ble Courts, before the competent authority i.e. Hon'ble Lt. Governor u/s 127 of DCS Act, 2003 read with Rule 163 of DCS Rules, 2007 for necessary action in compliance of orders passed by Hon'ble Courts.

**Agenda No. 3: Mandakani CGHS Ltd.**

Membership clearance case of:

- (A) Sh. Chander Kaul (Ms No. 369)
- (B) Ms. Sudha (Ms No. 375)
- (C) Sh. Suresh Kumar (Ms No. 372)
- (D) Sh. Dheeraj Kapoor (Ms. No. 371)





It has been apprised by the Assistant Registrar of the Section concerned that the freeze strength of the society is 120 out of which 112 cases have already been cleared from time to time and sent to DDA for draw of lots. The cases presently under consideration relates to the membership clearance of four member viz. Sh. Chanderkaul (Ms No. 369), Ms. Sudha (Ms No. 375), Sh. Suresh Kumar (Ms No. 372) and Sh. Dheeraj Kapoor (Ms. No. 371) in Mandakani CGHS Ltd.

The Assistant Registrar have further apprised that three members (viz. Sh. Chanderkaul (Ms No. 369), Ms. Sudha (Ms No. 375), Sh. Suresh Kumar (Ms No. 372)) of Mandakani CGHS Ltd. have approached the Hon'ble High Court by filing WPC No. 9505/2019 to seek a direction to regularize the membership of petitioners in the society. The Hon'ble High Court vide its order dated 10.03.2022 has observed that it would not be fare at this late stage to require them to vacate the flats in compliance of Rule-19, however the petitioners were directed to deposit Rs.1,00,000/- each towards cost for non-compliance of Rule-19 of DCS Rules, 2007. The Hon'ble High Court further directed the Department to verify the records and in case it is found that the petitioners are otherwise qualified to become members, the Registrar shall proceed the regularize the membership. Subsequently, another WPC No. 6379/2022 was filed by Sh. Dheeraj Kapoor seeking similar directions. The Hon'ble High Court disposed off the said petition giving similar directions. The operative part of order dated 10.03.2022 is reproduced as under:

*"8. We have considered the submissions of learned counsels for the parties on the aforesaid aspects. There can be no doubt that Cooperative Societies are bound to comply with the provisions of the Act and the Rules, and a Cooperative Society, which is desirous of inviting applications to fill up vacancies on account of resignation of its earlier members, should comply with the provisions of Rule 19 so that all those interested, who, otherwise, satisfy the condition of becoming a member of the Cooperative Society, are able to participate and have a chance to become a member. However, that was not done by the Mandakini Group Housing Society and inter alia, the petitioners were enrolled as Members privately. They have been enrolled as members and have deposited the cost of the flats allotted to them nearly two decades ago, and they have been residing in their flats allotted to them.*

...

12. In these circumstances, in our view, it would not be fair at this late stage to upset the petitioners and to require them to vacate the flats so that

*Ronit Kapoor*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*



a fresh process for enrolment of members could be undertaken in compliance of Rule 19 of the Delhi Cooperative Societies Rules, 2007.

13. In our view, we can still create deterrence for non-compliance of Rule-19 in future by directing each of the petitioners to deposit costs, which would have a deterrent effect.

14. We direct the petitioners to forward to respondent Registrar of the Cooperative Societies, through their Cooperative Society all the relevant documents for verification of their membership in terms of the provisions of the Act and the Rules, as were enforceable on the date when they made the applications for their membership. In case, it is found that each of these petitioners were otherwise qualified to become members on the date when they made their applications by reference to the provisions of the Act and the Rules as they were operating on the date when such applications were made, the Registrar of the Cooperative Societies shall proceed to regularise the membership. However, before doing so the petitioners shall deposit the W.P.(C) 9505/2019 Page 8 of 8 amount of Rs.1 lakh each in the Prime Minister's Relief Fund and shall also provide copies of the receipts while forwarding their applications for verification of their membership to the Registrar of the Cooperative Societies. The process of verification should be completed within six weeks of the relevant documents being forwarded by the cooperative societies."

The order dated 10.03.2022 of Hon'ble High Court has been challenged by the Department by way of filing SLP before the Hon'ble Supreme Court, however, the said SLP has been dismissed by the Hon'ble Supreme Court vide its order dated 03.03.2023. The Hon'ble Supreme Court vide its order dated 03.03.2023 has observed as under:-

*"Heard learned Additional Solicitor General for the petitioner.*

*In the facts and circumstances the delay of 246 days will have to be considered as inordinate and there is no sufficient cause shown for condonation of delay.*

*The special leave petition is disposed of on the ground of delay."*

The records submitted by the petitioners as well as the society have been verified by the concerned Assistant Registrar and it has been found that the petitioners are eligible to be the members of the Society, barring the condition laid down under Rule-19 (2) of DCS Rules, 2007 i.e. the society has not notified the said vacancies in two leading national daily newspapers of Delhi in Hindi and English.





However, the condition for admission of member as per Rule 24(2) of DCS Rules 1973 is as under :

**24. (2)** *In case of vacancy in a housing society including group housing society where layout and building plans have been approved by the competent authority, the same shall be filled by the committee by notifying It in leading daily newspaper of Delhi in Hindi and English. In case the number of applications are more than the notified vacancies the membership shall be finalised through draw of lot in the presence of authorised representative of the Registrar. (Added on 6.8.97);*

The Assistant Registrar further apprised that contempt petitions have been filed by the petitioners before the Hon'ble High Court alleging non-compliance of orders passed by the Hon'ble High Court. The contempt petitions are listed for compliance report before Hon'ble High Court on 17.04.2023.

Whereas, RCS on legal advice, apprised the present Committee that at the time of enrollment of the members in Co-operative society which is registered under DCS Act 1972 and DCS Rules 1973 were in force as the members were enrolled prior to the enactment of existing DCS Act and Rules and there was no such provision for placing matter before the Committee for clearance of Membership. Thus, in terms of directions of Hon'ble High Court contained in para-14 of order dated 10.03.2022, hence the matter is to be decided by RCS for said purpose.


The Committee carefully considered the facts of the case and various orders of the Hon'ble High Court and Hon'ble Supreme Court of India as brought out in the Agenda placed before the Committee. The Committee is of the view that despite the fact that Hon'ble High Court vide order dated 10.03.2022 in WPC No. 9505/2019 has directed the RCS respondent No.1 in that matter to dispense with certain documents required as per Rules, it is a fact neither RCS nor the Rule 90 Committee has any legal mandate to exempt operation of any provision of DCS Act 2003 or DCS Rules 2007. The RCS may in consultation with Law Department, place the facts of the case and the orders of the Hon'ble Courts, before the competent authority i.e. Hon'ble Lt. Governor u/s 127 of DCS Act, 2003 read with Rule 163 of DCS Rules, 2007 for necessary action in compliance of orders passed by Hon'ble Courts.




**Agenda No. 4: Manokamna CGHS Ltd.**

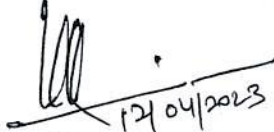
RCS stated that verification of membership of Smt. Kumkum C Singh (M.No. 104) of Manokamna CGHS Ltd has not been completed. Therefore, as of now, can not be recommended to place before the committee in accordance with DCS Act, 2003, DCS Rules, 2007 and bye laws of the cooperative society as required under Section 77 of DCS Act, 2003 read with Rule 90 of DCS Rules, 2007. Therefore, agenda item stands withdrawn and not taken up by the Committee.

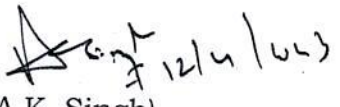
The meeting ended with vote of thanks to the chair

  
(Pradeep Kumar)  
(Dy. Registrar) [in place of  
Dr. T. Philip Thangliemang,  
Spl. RCS on leave]

  
(Puneet Nagpal)  
Addl. Secretary (L&J)/Member

  
(Gopal Mishra)  
Controller of Accounts  
Finance Department/ Member

  
(Krishan Kumar)  
RCS/Member

  
(A.K. Singh)  
Pr. Secretary, Co-operation/Chairman