

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

F.No.47/331/GH/Sec-viii/RCS/2022/5519-5522

Dated: 21/07/2023

In the matter of:-

Smt. Shakuntala Devi  
VERSUS

.....PETITIONER

Venus CGHS Ltd.  
(Through President/Secretary)

.....RESPONDENT

**ORDER**

This Order shall dispose of the proceedings initiated vide Show Cause Notice dated 30.09.2022 Under Section 37 of DCS Act, 2003 against the Managing Committee of the Venus CGHS Ltd.

Whereas, Deputy Registrar passed an Order U/s 139 of DCS Act, 2003 dated 01.11.2021, wherein a fine/penalty of Rs 10,000/- (@ 250/- per day till information is furnished is imposed upon the Society which is recoverable from the personal pocket of the Committee members or concerned Information Officer, as arrears of land revenue. Thereafter, ARCS executed the said DRCS Order and vide order dated 27.04.2022 directed the Society to deposit the penalty amount immediately and also provide the information sought by the appellant failing which further action as permissible under the DCS Act & DCS Rules shall be taken. However, the Society has not complied with Orders of DRCS and ARCS till date which constitutes violation of Section 139(1) of DCS Act, 2003.

Whereas, various complaints have been received in this Office from the members of the Society that the Audit of the Society is pending since 1992 which is a violation of Section 60(1) of DCS Act, 2003. Some of the members of the Society also appeared before Spl. RCS in Public Hearing on 05.05.2022 and alleged that the Managing Committee of the Society is demanding entry fee of Rs 30000/- for transfer of membership which is a violation of Section 92(3) of DCS Act, 2003.

Whereas, the Managing Committee of the Society vide letter dated 22.05.2022 has informed this Office that an AGM/GM was held on 22.05.2022 wherein it was unanimously decided that the tenure of the Managing Committee is increased to five



years with immediate effect which is a violation of Section 11(2)(u) of DCS Act, 2003.

And whereas, vide letter dated 04.07.2022 directions were given to the managing Committee of the Society to conduct election w.r.t. section 37(1) (a) of DCS Act, 2003 within 30 days on receipt of this Office letter. Further this Office has appointed Sh. T. Tarun Kumar, Dy. Director(Retd.) as Returning Officer in the Society.

The Society vide letter dated 05.07.2022 has requested this Office to review the Order dated 04.07.2022 and to cancel the appointment of Returning officer on baseless grounds which is a violation of Section 42 of DCS Act, 2003. Subsequently, Managing Committee of the Society vide letter dated 11.07.2022 informed to Sh. T. Tarun Kumar, R.O. appointed by this office that they had already appointed Returning Officer on their own in the GBM held on 22.05.2022.

Whereas, Smt. Shakuntala Devi, member of the Society appeared before DRCS in Public Hearing on 15.07.2022 regarding removal of Sh. A.K. Srivastava, Returning Officer which is appointed by the Society. On the basis of the documents provided by the member it is found that Sh. A.K. Srivastav also acted as Advisor for the Society and thus he is an employee of the Society which constitute violation of Section 35(1) of DCS Act, 2003.

Whereas, Smt. Shakuntala Devi, Sh. R.K. Gupta and some other members of the Society appeared before undersigned on 29.07.2022. Subsequent to this vide letter dated 29.07.2022 society was directed not to proceed with the election process and to hand over the records to Returning Officer, Sh. T. Tarun Kumar. Further, Sh. T. Tarun Kumar contacted the Secretary of the Society and telephonically told him to abide by the directions of the RCS dated 29.07.2022 and not to proceed further for election process.

Whereas, despite of above mentioned directions to the Society, the Society proceeded with the Election. The Society vide letter dated 31.07.2022 has submitted the result of Election of Managing Committee of the Society held on 31.07.2022. Accordingly, Show Cause Notice dated 30.09.2022 Under Section 37 of DCS Act, 2003 was issued against the Managing Committee of the Venus CGHS Ltd.

Whereas, the respondent society filed reply to the Show Cause Notice wherein it is submitted that:

1. The Penalty imposed U/s 139 by id. DRCS vide order dated 01-11-2021 had no merit on the following grounds. As per the landmark verdict by Hon'ble



Supreme Court of India the cooperative societies do not fall under the ambit of Right to Information Act 2005. The ex-party order passed by Id. DRCS on the complaint by an expelled member Smt. Shakuntala, flat no. 91 has been a wilful defaulter against whom the loan outstanding above Rs 22,00,000/- overdue was legally untenable. It is submitted that the complainant by a defaulter/ non-member was not maintainable either by the society or by RCS until the outstanding against his/her flat cleared and until the valid membership of the society acquired.

2. It is true that the audit of the society is pending since years but for that the present committee cannot be blamed because it came into the office only in 2022. All the previous committees and the RCS, has been responsible for that. The society wrote to Id. RCS for conducting audit of its accounts several times that did not respond.
3. The complaint of charging entrée fee without material evidence is baseless, false and frivolous. We will not reply to an allegation by a non-member Smt. Kanta Sharma w/o Shri S. N. Sharma who had been an executive of previous committee that lost the election and that unable to digest the crushing defeat.
4. It is stated that the General Body of the society has power to amend its by-laws. Section 73 of the Societies Act categorically states that the final authority of a society vests in the general body of its members and every society is managed by the managing committee constituted in terms of the bye-laws as provided under Section 74 of the Societies Act. Final authority so far as such types of Societies are concerned, as Statute says, is the general body and not the Registrar of Cooperative Societies or State Government. 12. Amendment of bye-laws. The General Body of the society unanimously resolved that the tenure of the managing committee of the society will be five years instead of three years which is neither wrong nor that violates an act/rule of the DCS as alleged.
5. The Managing Committee election of the society held on dated 31-07-2022 and had been conducted by following the DCS Acts/rules that did not violate any acts/ rules as alleged. On the contrary RCS official Smt. Suman Kumari, Id. ARCS, Sec-VIII, G/H by the gross abuse of power and position in connivance with the defaulters/ ex-officials of previous managing committee of the society acted arbitrarily and violated the order/ direction of the Hon'ble Delhi High Court by appointing Returning Officer (RO) without the consent of society. It



is submitted that Shri A. K. Srivastava, R.O. appointed by the society neither was an employee of the society nor paid any remuneration.

6. It is alleged that Smt. Shakuntala, flat no. 91 appeared before DRCS-1, in public hearing dated 15-07-2022 regarding removal of Sh. A. K. Srivastava, RO, appointed by the society. One again it is reiterated that Smt. Shakuntala is a wilful defaulter whose membership is cancelled hence cannot be relied upon her statement. It is further submitted that Id. DRCS-I has lied by quoting that the office bearers from the society Sh. R. K. Gupta and others appeared on the date of hearing dt. 29-07-2022, whereas there was no hearing on this date. The reason for such a false statement by Id. DRCS-I is known to him only that not known to the society.

Whereas, Smt. Shakuntala Devi filed rejoinder on the reply of the Respondent Society wherein she has submitted that:

1. The SC judgment has been wrongly relied upon by the respondent as it primarily deals with the RTI Act, 2005 and does not touch upon the purview of Section 139 of DCS Act, 2003.
2. She holds membership No.199 and is a valid member of the society. She further submitted that an Arbitration Award u/s 70-71 of DCS Act, 2003 was passed by Ld. Arbitrator Sh. Shailesh Gupta on 18.10.2022 wherein it was clearly mentioned that the demand of the society is bogus.
3. She further submitted that respondent M.C has continued to be in power since 2013 i.e. 9 long years and passing the blame on the past MC's and the Office of RCS for not conducting Audit is no reasonable excuse and amounts to violation of section 60 (1) & 60 (5) & 60 (6) of DCS Act, 2003.
4. She further pointed out that respondent Management Committee in 2013, passed a resolution in AGM held on 23.06.2013 wherein the entry fee was hiked to Rs 25,000 for LIG. Rs. 30,000/- for MIG and Rs. 35,000/- for HIG and through the same resolution, the membership fees was also increased to Rs 10,650 and the respondent Management Committee has themselves sent letters to Sh. S.N Sharma and Sh. Prashant Sharma dated 08.12.2020 and 01.03.2021 demanding an entry fee of Rs 30,000- in lieu of transfer of membership.
5. She also mentioned that respondent committee's illegal extension of its tenure for another 5 years is not only violation of Section 11(2) (u) but also Section 12 (2)(a) and Section 35(3) of DCS Act, 2003. The Management Committee has the power to make amendments in the bye laws of the society but the same cannot go beyond and transcend the provisions of the DCS Act 2003 and Rules 2007. That it is an established principles of law that an authority

cannot go beyond the limit and scope of the parent or the enabling act, and cannot manoeuvre or make decisions which are inconsistent therewith or repugnant thereto.

6. She further pointed out that respondent Management Committee (continuously in power since 2013) has been conducting elections undemocratically and the elections held on 31.07.2022 has been the third consecutive election after 2016 and 2019 that have been marred with grave irregularities and unethical-undemocratic principles. That O/o RCS vide letter 04.07.2022 appointed, Sh. T. Tarun Kumar as RO for conducting elections in the society within 30 days. Thereafter, the respondents issued a circular dated 01.07.2022 titled as Election of Management Committee but the same was distributed in the society only on 14.07.2022 and it was issued by the advisor of the society Sh. Ashok Shrivastava (Husband of Smt. Arudhna Shrivastava, Treasurer of the society), who had been appointed as R.O. by the Managing Committee of the society. It was mentioned in the circular that the elections are going to be held on 17.07.2022 at 2.30 pm i.e, within 03 days of its circulation which is a gross illegality and a serious violation of Section 35 of DCS Act, 2003 and Rule 53 of the DCS Rules, 2007. She further submitted that elections held on 31.07.2022 were held in violation and in total disregard to the RCS order dated 29.07.2022 and R.O Sh. T. Tarun Kumar's notice to the respondent committee which was also pasted on the society's main gates and society office on 30.07.2022 itself.

**Conclusion:**

In view of the above and after exhaustive perusal of the submissions made by the both the parties, it is noted that Managing Committee of the society is deliberately and intentionally not working in accordance with the provisions of DCS Act and Rules. The society is denying the information to the complainant citing the reason that the society is not covered under the RTI Act, however, it is well aware of the fact that Section 139 of DCS Act, 2003 is very clear in this regard which has already been conveyed to it in Order of DRCS dated 01.11.2021 wherein Society has already been penalised and yet abstaining from compliance of aforesaid Order.

It has also been observed that Audit of the society has not been done since 1992 which is a gross violation of DCS Act and Rules and the plea of the society that the present Managing Committee cannot be held responsible because it came into the office only in 2022 is not tenable as per Section 60(5) of DCS Act, 2003 which provides that:

**Section 60 (5)** *It shall be the duty of the committee of the co-operative society to ensure that its accounts are audited annually and the audit report presented for consideration in annual general body meeting of the co-operative society as provided in section 31 and a copy of the audit report*



*shall also be forwarded by the co-operative society to the Registrar for his information and record.*

With regard to the AGM/GBM of the Society held on 22.05.2022 wherein the Managing Committee of the society unanimously increased its tenure to five years with immediate effect on the pretext of General Body of the society having power to amend its by-laws, it is observed that this act of Managing Committee of the Society is not legal and *void ab-initio* as the Society is in violation of the section 11(2)(u) of DCS Act, 2003 which provides that:

*11 (2) (u) the term of office of elected members of a committee shall be three years;*

The submission of the Society on the query raised by the undersigned during the proceeding on 24-11-2022 regarding Sh. Ashok Kumar Srivastava, Husband of Treasurer of Society being appointed as Returning Officer (RO), that since no Government fund is invested in Venus CGHS Ltd. the Society has power to conduct the election on its own and Sh. Srivastava was neither a member nor paid employee of the society hence eligible to be appointed as RO and conduct the election, is not plausible as the Returning Officer being spouse of a contesting member creates conflict of interest and raises doubt over fairness of the election. Also the Self-Appointed R.O, Sh. Ashok Kumar Srivastava did not follow the procedure laid down in Sechedule II 1 (iv) which requires that :


*Sechedule II 1 (iv) If the co-operative society has not got conducted audit or annual general body meeting as per provisions of the Act, the Returning Officer shall seek prior permission of Registrar before initiating the process of elections.*

In view of the observations made above. I am of the considered opinion that the Respondent Managing Committee of the society is not working in accordance with Cooperative Spirit and has intentionally conducted gross violations of the provisions of DCS Act, 2003 and Rules, 2007. It is pertinent to mention that the Election of the Society conducted in absence of any Audit of the society been done since long time and in violation of the procedure laid down in Secdehule II 1 (iv) of DCS Rules, 2007, is illegal which makes the present Managing Committee body void ab-initio. Also, the Society has been derelict in compliance of the directions and orders of this Office to provide the Information to the rightful Members of the Society.

Accordingly, The illegal Managing Committee of the society is immediately removed and Sh. P.K. Khanna is hereby appointed as Administrator of the society u/s 37(1) of DCS Act, 2003 initially for a period of 3 months. He shall be paid Rs. 10,000/- honorarium per month which is to be paid from the society fund. Further, ARCS is also directed that Special Audit of the society should be conducted. Also the ARCS of




the concerned section is directed to verify the facts in detail and thereafter put up for penalties and fines U/s 118 of DCS Act, 2003 or any other relevant provisions including Criminal charges against the Respondent members for various serious violations of DCS Act and Rules framed there under.

  
21/3/2023  
**Krishan Kumar**  
**Registrar Coop. Societies**

Sent To:-

1. President/Secretary, Venus CGHS Ltd. Plot No. 07(G-17), Inder Enclave, Rohtak Road, Paschim Vihar, P.O. Sunder Vihar, New Delhi-110087.
2. Smt. Shakuntala Devi, R/o 91, Venus CGHS Ltd., Plot No. 07(G-17), Inder Enclave, Rohtak Road, Paschim Vihar, P.O. Sunder Vihar, New Delhi-110087.
3. ARCS (Housing Section-8) O/o RCS.
4. Incharge Computer Cell to upload on Website of the Department.

  
21/7/2023  
**Krishan Kumar**  
**Registrar Coop. Societies**