

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

No.F47/Sec-03/582/GH/5983-93

Dated: 14/9/23

Order

In the matter of:-

EX-M.C. FAKHRUDDIN MEMORIAL CGHS LTD.


This order shall dispose of the proceedings initiated vide Show Cause Notice dated 30.11.2017 issued under section 66(2) of DCS Act, 2003 against the members of Managing Committee of Fakhruddin Memorial CGHS for the period of 2004 and 2012.

Whereas, the Fakhruddin Memorial CGHS Ltd. is registered at S. No. 582/GH under the provision of DCS Act, 1972 and DCS Rules, 1973.

Whereas, an Inquiry has been conducted by Sh. Bipan Kumar under section 66(1) of DCS Act, 2003 who vide his report dated 29.05.2017 has observed that the following office bearers in their various capacities in the Managing Committee/Core Committee in the year 2004 and 2012 were responsible under section 66(1) of DCS Act, 2003 for manipulating the seniority of members, without looking into the facts that the members who participated in self draw were eligible for draw or not as per the provisions of DCS Act and Rules and did not adopt uniform process for allotment of draw and thereby conducted illegal draw of flats in the society.

Whereas, a Joint reply has been filed by Sh. U.N. Mishra, Ms. Mini jha, Mr. Shakeel Akhtar and Smt. Sudha Khatri dated 10.04.2018 all members of Core committee for the period 2012. They have submitted that Managing Committee has called SGBM on 25.02.2012 and a resolution was passed in the GBM for the draw and was approved by the verbal vote of the all the members present. Five members of the core committee were nominated as facilitators by Unanimous vote of the previous management and all 112 members present. Mr. Chetan, project engineer employee of Managing committee supervised complete draw.

Whereas, a reply has been filed by Sh. Shamim Ahmed, Abdul Moin Hashmi, Rashid Ahmed and Mr. Abrar Ahmed wherein they submitted that first hundred flats have been allotted in the year 2004 with due approval of RCS and in the presence of Hon'ble Chief Minister Mrs. Sheila Dixit and in the presence of representative of Lessor of Land i.e. DDA. They further submitted that apart from core committee the





members too were responsible for draw of lots and therefore everybody who took the benefit thereof should be directed to get the same regularised by paying the dues pending against them.

Further a reply has been received from Sh. Shakeel Akhtar, Dr. Manish Kumar Singh and Ms. Mini Jha wherein they have submitted that a revision petition has been pending in Court of Financial Commissioner challenging the inquiry report of inquiry officer U/s 66 (1) of DCS Act, 2003 as well as Show Cause notice dated 30.11.2017.

They further submitted that the society is comprising of 5 blocks A, B, C, D and E and is of 238 members, which was constructed in phase manner. The first phase comprising of 100 flats was allotted to 100 senior most members by a draw of lot carried by DDA in 2005 after the completions of A & C Block. The construction of B & D could not be completed till 2012. The 112 members entitled for allotment in these blocks took a final decision in frustration and casual approach of concerned authorities and the MC of society took a decision under forced circumstances to go ahead for carrying out Self Draw of these 112 flats in violation of Section 77 of the DCS Act, 2003 in Special General Body meeting held on 25.02.2012. The decision was taken by the members unanimously by members of B & D in the same manner following the path of 26 identical societies of Dwarka, which carried out self-draw in 2010-2011 by violating the Section 77 of the DCS Act, which provides prosecution for the Committee of the Society. While there were 26 such societies but none of the committee members were prosecuted for violation of Section 77 of the DCS Act, 2003, rather all such self draws carried out in these society was regularized by the Competent Authorities awarding them clemency by accepting their hardship and their innocence vide order of Gazette Notification dated 17.10.2011.

They further submitted that in the said meeting with the blessings of the then legally elected MC, a core Committee was formed comprising of 5 members which includes Dr. Manish Kumar Singh, Mr. UN Mishra, Ms. Mini Jha, Mr. Shakeel Ahmed and Ms. Sudha Khatri, which subsequently issued the necessary certificate of allotment and possession under their signatures. In these circumstances only members could be singled out for prosecution rather all the 112 members were liable for any punishment under Section 77 of the DCS Act 2003. It is pertinent to mention here that most of the MC members including the then President of Society Mr. Parvez Ahmed were beneficiaries of this Self draw. They furthermore submitted that, it is also a very strange situation wherein the RCS has accepted the legality and validity of the Self Draw of flat held on 25.02.2012 when a letter for clearance of membership was sent by RCS Office to DDA for regularization on 16.05.2013.

They further submitted that, it is a shocking state of affairs handled in an utmost casual manner by violating the provisions of Section 60, 61 & 62 of the DCS before



imitating the proceedings under Section 66 of the DCS Act which pertains to the charge and requires the prior proceeding under Section 60, 61 or 62 of the DCS Act. While issuing the Notices under Section 66 (1) (2) the name of the then President Mr. Parvez Ahmed was excluded reason best known by pick and choose method arbitrarily who also allotted with a Flat in B & D block, and he sold his flat illegally in violation of the terms and conditions set out by the members in the said SGBM on 25.02.2012. It appears that Mr. Parvez Ahmed was alone excluded because he was the son of Late President of India Mr. Fakhruddin Ahmed and the real younger brother of the then a High Court Judge Mr. Badar Durez Ahmed.

In view of the above and perusal of the replies filed by the respondents as well as the Inquiry Report, it is noted that the society has gone for the self draw in the year 2012 for the Block-B and Block-D of the society which is a violation of section 77 of DCS Act, 2003. However, for Block-A and Block-C, draw has been conducted in the presence of DDA, lessor of land and in the presence of representative from this office.

Further, it is apt to mention that a committee headed by Sh. K.K. Mathur former Chief Secretary of Govt. of NCT of Delhi with Sh Y D. Bankata, IAS Retd as another member has been constituted by the Hon'ble Lt. Governor of NCT of Delhi to give their recommendations on terms of reference for this Committee.

The First term of reference was as under:

“To suggest measures which could be taken for verification of membership for such cooperative societies which have held self draw of lots in violation of DCS Act and Rules. The said committee is functioning and is expected to give its report by the end of this month.”

“The committee is also expected to give recommendations upon criminal liability of the office bearer of the society who are responsible for conducting such self allotment of flats.”

Whereas, Mathur Committee submitted its report in June, 2011. However, the Committee did not give any recommendations with respect to the criminal liability of the MC members but only recommended debarment of MC members from participating in future elections of the Management Committee. The report of the Committee was placed before the Hon'ble Lt Governor and the Hon'ble L.G. vide order dated 20.9.2011 accepted the report of the Committee however did not favour the debarment of the MC members. Permission was also given to invite such other societies like the present one to provide them one time opportunity for regularization.

On the recommendations of Mathur Committee report, a Notification dated 17.10.2011 was issued wherein one time exemption to 26 societies was granted u/s



127 of DCS Act, 2003. The said notification dated 17.10.2011 provided for regularisation of the self-draw conducted by the 26 specific Cooperative Group Housing Societies listed in the body of the said notifications itself by granting one time exemption from operation of sub-section of Section 77 of DCS Act, 2003 subject to some conditions.

In view of the same, it is an admissible fact that the society had gone for the self draw for Block B & D in the year 2012 which is a violation of section 77 of DCS Act, 2003 and the Managing Committee Members (Including the Core Committee Members) and the Members of the society are liable for prosecution under section 118(7) of DCS Act, 2003. However, as exemptions were granted to the societies who opted for self draw in view of the Notification dated 17.10.2011 which provides for regularisation of the self-draw conducted by the 26 specific Cooperative Group Housing Societies listed in the body of the said notifications itself by granting one time exemption from operation of sub-section of Section 77 of DCS Act, 2003 subject to some conditions. Hence, the respondents be given parity of their case viz. a viz. the Managing Committee members against whom the proceedings had been dropped. Therefore, the Show Cause Notice dated 30.11.2017 is hereby set aside. Ordered accordingly.



Krishan Kumar
Registrar Cooperative Societies

Sent To:-

1. Sh. Abdul Moin Hashmi, B-6, Nizamuddin (West), New Delhi-110013
2. Sh. Rashid Ahmed, B-6, Nizamuddin (West), New Delhi-110013
3. Sh. Abrar Ahmed, B-6, Nizamuddin (West), New Delhi-110013
4. Sh. Shamim Khatri, B-6, Nizamuddin (West), New Delhi-110013
5. Sh. Shakeel Akhtar, R/o B-506, Plot No. 18, Fakhruddin Memorial CGHS Ltd. Sector-10, Dwarka, New Delhi-110075
6. Ms. Mini Jha, R/o B-302, Plot No. 18, Fakhruddin Memorial CGHS Ltd. Sector-10, Dwarka, New Delhi-110075
7. Ms. Sudha Khatri, R/o B-305, Plot No. 18, Fakhruddin Memorial CGHS Ltd. Sector-10, Dwarka, New Delhi-110075
8. Sh. U.N. Mishra, R/o D-103, Plot No. 18, Fakhruddin Memorial CGHS Ltd. Sector-10, Dwarka, New Delhi-110075
9. Dr. Manish Kumar Singh, R/o B-605, Plot No. 18, Fakhruddin Memorial CGHS Ltd. Sector-10, Dwarka, New Delhi-110075
10. ARCS, Housing Section-3, O/o RCS.
11. Incharge Computer Cell