

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

No.F.47/780/SW/GH/5994 - 60/0

Dated: 14/9/23

In the matter of

National CGHS Ltd.

U/s 66(2) of DCS Act, 2003

ORDER

This order shall dispose off the proceedings initiated vide show cause notice bearing no. No.F.47/780/SW/GH/961-974 dated 23.03.2012 issued under section 66 (2) of DCS Act, 2003 read with Rule 83 of DCS Rules, 2007 to Lt. Col. S.R. Choudhary, Sh. S. Thakur, Sh. Hema Dhar Jha, Sh. Prabhash Chander Jha, Sh. M.P. Mittal, Dr. Anil Choudhary, Sh. D.C. Nath, Sh. B.S. Vidyarthi, Smt. Bandana Jha, Sh. B.S. Mehra, Smt. Kumud Mishra, Smt. Naveen Lata Rastogi, Smt. Manju Kalra, Sh. A.R. Ramaninathan seeking explanation as to why sum of Rs. 1,09,83,081/- (Rupees One Crore Nine Lakhs Eighty Three Thousand and Eighty one only ie. Rs. 1,08,96,081/- (excess amount to be recovered as per inquiry report) plus Rs. 87, 000/- (Honorarium paid to the Inquiry Officer from the funds of the society) plus the amount of publication charges (Bill in respect of public notice charges is yet to be received in this office) should not be recovered jointly and severally from them and deposit the same in the funds of the society as well as recovery fund of this office, as the case may be.

The respondents were afforded opportunity of personal hearing and to make their submissions along with documentary evidence to support their contentions on 24.10.2002 and on subsequent dates of hearing. During the course of hearing the respondents Sh. R.R. Chaudhary, Sh. H. D. Jha, Dr. B.S. Vidyarthi, Sh. P.C. Jha, Sh. Anil Chaudhary, Sh. D.C. Nath, Smt. Bandana Jha, Sh. Ramninathan, Smt. Aruna Thakur and Smt. Kumud Mishra were represented by their counsel Sh. Sanjay Kumar Mishra. Sh. B.S. Mehra and Smt. Naveen Lata in person and later by their authorized representatives. The society was represented by Sh. O.P. Dhar, secretary of the society.

During the course of hearing Sh. Sanjay Kumar Mishra, counsel for the respondents referred to the order dated 20.06.2008 passed by the then RCS vide which the proceedings initiated under section 66(2) of the DCS Act, 1972 were



disposed of. In order dated 20.06.2008 it was observed by the then RCS that issue of excess payment will be settled while finalizing the final bill of the contractor. This order was also upheld by the Hon'ble High Court of India vide order dated 08.07.2008 passed in W.P.C. No. 6430/2007. Now, vide order dated 21.07.2016 the arbitration proceedings has been concluded by Retd. Justice R. C. Chopra, in arbitration case no. 12 of 2013, vide which the society has paid Rs.20 Lacs (Twenty Lakhs) to the contractor.

Sh. O.P. Dhar, Secretary of the society also filed his submission regarding arbitration award dated 21.07.2016 in respect of M/s Cosmo Builders Pvt. Ltd V/s National CGHS Ltd, stating that litigation pending since long with M/s Cosmo Builders Pvt. Ltd. was discussed in the Special General Body meeting of the society held on 29.05.2016 and it was observed by the members that the litigation was pending for more than twelve years and was expected to continue for long. The society has to spend two to three lakh rupees every year by way of fees of arbitrator, advocate and other related administrative expenses which was being contributed by the members. The members of the society expressed unanimously that the matter be amicably settled and after prolonged negotiations a settlement was arrived at which was submitted to the Arbitrator who gave the consent award on 21.07.2016 which involved payment of Rs. 20,00,000/- to M/s Cosmo Builders Pvt. Ltd in full and final settlement of the claims and counter claims of the parties. The whole process was subsequently confirmed and approved in the annual meeting of the General Body Meeting held on 28.08.2016.

A report on the arbitration award was also submitted by the Assistant Registrar (section-5) stating that the proceeding are regarding alleged overpayment of Rs. 1,78,75,086/- by the previous managing committee of the society to the contractor. An arbitration award dated 21.07.2016 has been passed by the Arbitrator Retd. Justice Sh. R.C. Chopra. The said award is a consent award wherein both the parties have entered into M.O.U. and the society has made further payment of Rs.20 Lacs to the claimant contractor towards settlement.

Sh. Sanjay Kumar Mishra Id. Advocate filed Brief Synopsis of the matter dated 23.05.2023, wherein he had submitted that an consensual award dated 21.07.2016 was passed by Hon'ble Justice R.C. Chopra(Retd.) sole Arbitrator in Arbitration case no. 12 of 2013 in the matter of Arbitration between M/s. Cosmo Builders & Constructors Pvt. Ltd. Vs National CGHS wherein both the parties have entered into M.O.U. and the society has made further payment of Rs.20 Lacs to the claimant contractor towards settlement. Hence, the award proved that payment to contractor was not a case of excess payment but a case of lesser payment and in the light of consent award dated 21.07.2013, the order of RCS dated 20.06.2008



and the order of the Hon'ble High Court dated 08.07.2008, as, all three orders remains unchallenged and hence attained finality. He further submitted that Lt.Col S.R. Choudhary, Dr. B.S. Vidhyarthi and Mr. D.C. Nath were expired some time ago and he has no communication with their respective legal heirs.

In view of the above mentioned facts and careful perusal of the submissions made by the counsel for the respondents and secretary of the society, I am of the view that vide order dated 20.06.2008, it was observed by the then RCS that "a conscious decision was taken that the issue of the access payment will be settled while finalizing the final bill of the contractor and the claims and counter claims of the contractor as well as the society is matter of arbitration, adjudicated upon by the former Chief Justice of India. This clearly indicates that the issue of payment to the contractor access or otherwise has not yet been conclusively proved. Thus, loss, if any, caused to the society is yet to be determined and hence no responsibility can be fixed at the stage". This order was upheld by the Hon'ble High Court of Delhi vide its order dated 08.07.2008 with observations that vide order dated 20.6.2008 passed by the Registrar Cooperative Societies, Mr. U.K. Vohra it is noticed that the claims of the contractor and the counter claim of the society have been referred to arbitration of Hon'ble Justice B. N. Khare, former Chief Justice of India, and accordingly, at this stage, it could not be said what liability is crystallized on the society. Hence, the entire exercise was premature".

Now, as the arbitration proceedings has been completed and an award dated 21.07.2016 has been passed, vide which the society had paid an amount of Rs. 20 Lacs to the contractor M/s Cosmo Builder Pvt. Ltd, thus there seems no reason for the present proceedings under section 66(2) of the DCS Act, 2003, as the proceedings were for the recovery of access amount paid to the contractor, whereas now the society had paid Rs.20 Lacs more to the contractor. Thus, the proceedings against the Ex- M.C. members of the society vide show cause notice dated 23.03.2012 are dropped. Ordered accordingly.



  
13/09/2023  
Krishan Kumar

Registrar Co-operative Societies

Sent to:

1. The President Secretary, National CGHS Ltd, Plot No.4, Sector -03, Pappan Kalan, Dwarka, Ph-01, New Delhi-110075.
2. Sh. Lt. Col. S.R. Choudhary. Ex-President, C-400, Palam Extension, Amrai Road, New Delhi-110077.

3. Sh. S. Thakur. Flat No. 116-C. National CGHS Ltd., Plot No. 4 Sector-13, Pappan Kalan, Dwarka, Ph-01, New Delhi-110075.
4. Sh. Hema Dhar Jha. Ex-President, through President Secretary. National CGHS Ltd. Plot No. 4, Sector-3. Pappan Kalan, Dwarka, Ph-1. New Delhi-110075
5. Sh. Prabhash Chander Jha. Ro 271, Gagan Vihar, New Delhi-110051.
6. Sh. M.P Mittal, through National CGIIS 14d., Plot No. 4 Sector-03, Pappan Kalan. Dwarka, Ph-01. New Delhi-110075.
7. Dr. Anil Choudhary, Ex-Vice President, 9, 1.S. Safdar Hashim Road, Mandir House. New Delhi-110001
8. Sh. D.C. Nath, Ex-President, A-2/52. Safdarjung Enclave. New Delhi-110029
9. Sh. B.S. Vidyarthi, Ex-Secretary member, C-85. National CGHS Ltd., Plot No. 4 Sector-03, Pappan Kalan. Dwarka. Ph-01, New Delhi-110075
10. Smt. Bandana Jha. Ex- Member, through National Ltd.. Plot No. 4 Sector-03. Pappan Kalan, Dwarka. Ph-01. New Delhi-110075.
11. Sh. B.S. Mehra, Ex-member treasurer, through President/Secretary, National CGHS Ltd.. Plot No. 4 Sector-03, Pappan Kalan. Dwarka, Ph-01. New Delhi-110075.
12. Smt Kumud Mishra, Ex-member, through President Secretary National CGHS Lid, Plot No. 4 Sector-03, Pappan Dwarka, Ph-01. New Delhi-110075.
13. Smt. Naveen lata Rastogi. Ex-member, through President Secretary, National CGHS Ltd, Plot No. 4 Sector-03. Pappan Kalan, Dwarka, Ph-01, New Delhi-110075.
14. Sat. Manju Kalra Ex-member, through President Secretary. National CGHS Lad.. Plot No. 4, Sector-03. Pappan Kalan. Dwarka, Ph-01. New Delhi-110075.
15. Sh. A.R. Ramaninathan, Ex-member, through President Secretary. National CGHS Ltd.. Plot No. Sector-13, Pappan Kalan, Dwarka. Ph-01, New Delhi-110075
16. ARCS Housing Section -5 O/o RCS
17. Incharge Computer Cell.

  
13/08/2023  
Krishan Kumar

Registrar Co-operative Societies