

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/AR/SEC-5/T/C/RCS/2018/6145-6148

Dated: 22/09/2023

In the matter of:-

SH. MAHAVIR JHA

.....COMPLAINANT

VERSUS

THE NEW ASHOKA HOTEL
KARAMCHARI COOP.
T/C SOCIETY LTD.

.....RESPONDENT

ORDER

This Order shall dispose of the proceedings initiated vide Show Cause Notice dated 16.08.2018 U/s 37 (1) of DCS Act, 2003 for supersession of the Management Committee of New Ashoka Hotel Karamchari Coop. T/C Society Ltd.

Whereas, New Ashoka Hotel Karamchari Co-operative Thrift & Credit Society Ltd. is registered with the office of RCS under Regn. No. 345 UI.

Whereas, vide Order dated 30/04/2015 Sh. Vijay Bhardwaj, Appellate Authority/DRCS-III had directed the Society to furnish the copy of Bye-laws of the said Society to the Appellant within a period of 3 weeks of receipt of that order. The same remained non-complied.

Whereas, vide order dated 14/07/2015 direction was issued to the society to furnish the Certified copies of bye-laws of the Society and Copy of Balance Sheet for the financial year 2001 till date to the appellant Sh. Mahavir Jha, within a period of 2 weeks of receipt of the order. The same remained non-complied.

Whereas, vide Order dated 20/01/2016 direction was issued to PIO/AR (Audit), to provide the status and copies of Audit Report for the last ten years and the President/Secretary of Society to provide the copy of Bye-Laws to PIO/AR within 15days from date of issue this order. The same remained non-complied.

Whereas, Show Cause Notice dated 15/03/2016 was issued to call upon the President/Secretary /information officer of the Managing committee of society to explain as to why maximum penalty as per provisions of section 139 of DCS ACT 2003 READ WITH Rule 165(8) of DCS Rules, 2007 should not be imposed upon the society. The same remained non-complied.





Whereas, vide order dated 09/12/2016 was issued by Dy. Registrar, wherein a penalty @ Rs. 250/- per day subject to a maximum of Rs. 10,000/- was imposed upon President of the society Sh. Hira Ballabh and the penalty so imposed under this provision, shall be recovered from the personal pocket of the President of the society Sh. Hira Ballabh as a rear of land revenue. The same remained non-complied.

Whereas, as per available record in Audit Branch of this office society has got appointed M/s. R. K. Khattar & Co. and M/s. S.S. Katyal & Co as Auditors to conduct the audit from the financial year 2002-03 to 2007-08 but the Audit Reports for this period have not been submitted / approved in Audit Branch.

Whereas as per letter dated 03.02.2018 society have submitted the photocopy of receipt of Audit Report for the Financial Year 2011-12 without the appointment letter issued under the signature of Assistant Registrar (Audit) and stamp on the receipt is illegible due to which it cannot be ascertained whether the same has been received in this office.

Whereas, the society has violated section 60 and 96 of DCS Act, 2003 and Rules 38,39, 44 &79 of DCS Rules, 2007.

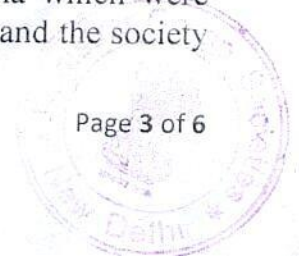
Whereas, a Show Cause Notice dated 16.08.2018 was issued to the New Ashoka Hotel Karamchari Coop. T/C Society Ltd. for Non Compliance of various aforesaid orders of this Department and various allegations of violations of DCS Act and Rules.

Whereas, a reply dated 13.09.2018 to the Show Cause Notice had been filed by President and Cashier of The New Ashoka Hotel Karamchari Coop. T/C Society Ltd. wherein it is submitted on behalf of society that

1. Sh. Mahavir Jha was not a member of the society nor was he a creditor as such society was not under obligation to provide the byelaws of the society to Sh. Mahavir Jha as per Order dated 30/04/2015 of Sh. Vijay Bhardwaj.
2. Sh. Mahavir Jha acted against the interest of the society in Sept, 2012 and took a signature of more than 50 members of the society on a Blank paper and misused the same by writing a letter to society office on 5th Sept,2012 against the society as well as Sh. S.S. Upadhyaya, Ex-employee of Ashoka Hotel. The society received the complaint of Sh. Mahavir Jha through Sh. Navin Kataria, Asstt. Registrar vide letter dated 27.9.2012 and the members of the society in 50 members wrote a letter to Registrar office on 29.10.2012 that they have not authorize Sh. Mahavir Jha to make complaint against the society and their signature taken on the blank paper are misused by Sh. Mahavir Jha and they have no complaint against the society. The members further wrote a letter to Registrar Office to take action against Sh. Mahavir Jha as such Sh.Mahavir Jha was acting against the interest of the society as well as co-op. movement of the society wilfully and intentionally to harm the interest of the society but unfortunately the Registrar Office did not took any action on the complaint of society/members.



3. In similar cases one Sh. S.S. Upadhyaya, Ex-employee of Ashok Hotel filed an application under RTI Act-2005 seeking some information from ITDC Kamgar T&C society which is illegally functioning in Ashok Hotel and society did not provide the information to Sh. S.S. Upadhyaya inspite of advise by Registrar Office then matter went to the appellat authority who directed the Registrar office to provide the needful information to Sh. S.S. Upadhyaya from Registrar office itself rather than forcing the society to provide the information. The same principal could have applied in case of Sh.Mahavir Iha appeal also. The order was pass by Sh. Raj Kumar First appellat authority letter dated 19.12.2014.
4. The Audit Branch has issued direction on 20.1.2016 to provide the copy of Audit Report, no such letter was received from the Audit office however copy of the audited balance sheet up to 2011-12 were shown to the Registrar office during the proceeding conducted under section 37 (1) of the act-2003 conducted by Registrar Sh. T.Shree Kanth who passed the order on 20.9.2016. The audited balance sheet up to financial year 2011-12 has been filed by the society and from 2012- 13 onward society should get audited the account of the society by auditor appointed by Registrar office but unfortunately Registrar Office has not appointed the Auditor till today in spite of so many letters/reminder.
5. In the letter dated 16.8.2018 it is mentioned that society did not appoint M/s R.K. Khattal & Co., and M/s S.S. Katyal & Co., as Auditor to audit the account of the society. The society never received any letter till date for appointment of above said auditor. It was the duty of Registrar Office to appoint the auditor and communicated the society but society never received any letter to appointment the above auditor. In fact the society has been writing continuously for appointment of auditor through its letters dated 22.11.2017 and 03.2.2018 but till today society has not received any letter from Registrar office regarding appoint of Sh. Khatal or Sh. Katyal as auditor. More-over society has been continuously writing to Registrar office to appoint auditor to audit the account of the society as per the order of the then Registrar office Sh. T. Shree Kanth letter dated 20.9.2016 as society was restricted not to appoint any auditor directly and get audited the society account through auditor by the Registrar office.
6. In letter your good self has mentioned that letter 03.2.2018 the society has submitted the photo copy of balance sheet of financial year 2011-12 which is not clear in fact on 03.2.2018 the society has shown all original Balance sheet up to financial year 2011-12 in the audit branch and the photo copy of last audited balance sheet 2011-12 was again given on the request of the audit branch such society has followed all the right instruction of the Registrar office in true spirit and none of the order of Registrar office has been violated by the society. The society has not violated section 60 and 96 of DCS Act-2003 and Rules 38, 39, 44 of DCS rules 2007 as such does not require any action u/s 37 (1) of DCS Act -2003 by your office as similar proceeding were conducted earlier on the baseless and false complaint of Sh. Mahavir Jha which were decided by Sh. T. Shree Kanth the then Registrar Co-op society and the society



was given the clean chit by the Registrar office. The issues which are already decided by competent authority same cannot and should not be open.

Whereas, the Society filed another reply dated 14.09.2021 wherein the society submitted that the society has appointed Auditor from the panel of RCS office and got the audit of the society upto date and have submitted the balance sheet in registrar office as per rule. Further, the society submitted that society is not supplying documents to Sh. M.C. Jha as he was not a member of the society. He was removed from the society in 2012 due to fraud committed by him.

On proceeding dated 12.09.2021 before the predecessor of this court it was pointed out that complaint petition dated 08.05.2018 mentions that it is from Sh. Mahavir Jha and Ors. However, the complaint/claim petition is signed only by Sh. Mahavir Jha. Accordingly Sh. Mahavir Jha was directed to clarify the matter or file an amended petition.

Thereafter, Sh. Mahavir Jha has filed an amended petition dated 23.08.2021 signed by Sh. Mahavir Jha, Sh. Jasbeer Singh and Sh. Jagannath Singh wherein petitioners have referred to Section 20 (5) of DCS Act, 2003 , Section 32 of DCS Act, 2003, Section 96 of DCS Act, 2003 and Section 60 (1) & 60 (6) of DCS Act, 2003 alleging that :

1. Since 2004 no AGM of the Society has been conducted as per the established norms & rules of the Society.
2. Since 2004 no Election of the Society has been conducted as per the established norms & rules of the Society.
3. Since 2001-2002 not Audit of the Society has been conducted as per established norms and rules of the Society.

Whereas, Society filed parawises reply to the fresh application submitted by the Sh. Mahavir Jha wherein society stated that:

1. The society has been writing letter to the registrar office continuously to appoint a auditor and finally appointed auditor from the approve the list of the auditor by the registrar office accordingly as such the audit of the society is complete upto financial year 2020-2021 respectively.
2. That the review petition filed by the petitioner is against the order of the registrar dated 20.09.2016 is not maintainable as review petition should have been file by complainants within 30 days of passing the Order by Ex-Registrar date 20.09.2016 .
3. That the society has been calling General Body Meeting from time to time and latest General Body Meeting on dated 11.10.2021 and have submitted relevant document to the Registrar office on 30.12.2021 for increasing loan limit, share money and C.D. which is pending in registrar office.
4. That the society have submitted up to date balance sheet for financial year 2021 on 14/09/2021 as such no audit of society is pending.

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In view of the above and after perusal of the submissions made by the parties, it is noted that the complaint alleged various irregularities done by the M.C. of the society like the society is not complying with the orders of the Dy. RCS passed u/s 139 of DCS Act, 2003. Further, it has been alleged that the accounts of the society are not being audited regularly which is a violation of section 60 of DCS Act, 2003. Society is not conducting AGM as prescribed in DCS Act and Rules, which is a violation u/s 31 of DCS Act, 2003. However, the M.C. of the society submitted that audit of the society is upto date and the society is conducting the AGMs and elections as per the provisions of DCS Act and Rules.

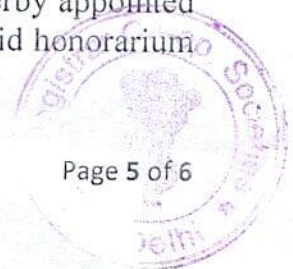
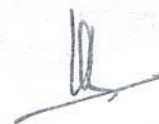
Furthermore, with regard to the compliance of the order of the Dy. RCS regarding the information to be given to the complaint the society submitted that the Sh. Mahavir Jha was not a member of the society nor was he a creditor as such society was not under obligation to provide the byelaws of the society to Sh. Mahavir Jha as per Order dated 30/04/2015 of Sh. Vijay Bhardwaj. However, it is pertinent to mention that the said expulsion of the society has been set aside by the order of the ARCS dated 31.12.2013. Hence, it is clear that society is wilfully disobeying the directions/orders of this court, which is a clear violation on the part of the M.C. of the society.

Further, with regard to the Audit of the society, it is noted that the account of the society are not getting audited as per the prescribed provisions of DCS Act and Rules which is a violation of section 60 of DCS Act, 2003. Whereas, as per available record in Audit Branch of this office society has got appointed M/s. R. K. Khattar & Co. and M/s. S.S. Katyal & Co as Auditors to conduct the audit from the financial year 2002-03 to 2007-08 but the Audit Reports for this period have not been submitted / approved in Audit Branch.

Whereas as per letter dated 03.02.2018 society have submitted the photocopy of receipt of Audit Report for the Financial Year 2011-12 without the appointment letter issued under the signature of Assistant Registrar (Audit) and stamp on the receipt is illegible due to which it cannot be ascertained whether the same has been received in this office.


The society has not conducted AGM on regular basis as per the prescribed procedure in DCS Act and Rules which is a violation of section 31 of DCS Act, 2003. Furthermore, it is pertinent to mention here that the elections of the Society are also not conducted on regular basis and the last election of the society which was held on 11.10.2021 are also illegal as the same has not been held as per the procedure prescribed under the law. No Returning Officer has been appointed by the society and the society simply held the election in the AGM held on 11.10.2021 under the presidentship of Sh. Naresh Kumar.

Therefore, in view of the observations made above, the illegal Managing Committee of the society is removed and Sh. Rakesh Kohli, Sr. A.O. O/o RCS is hereby appointed as Administrator of the society u/s 37 of DCS Act, 2003. He shall be paid honorarium




of Rs. 10, 000/- per month, which is to be paid from the funds of the society. Ordered accordingly.




21/08/2023
Krishan Kumar
Registrar Coop. Societies

Sent To:-

1. Sh. President/Secretary, The New Ashoka Hotel Karamchari Coop. T/c Society Ltd. Ashoka Hotel Staff Qtrs, C-48-49, 50-B Chanakya Puri, New Delhi-110021.
2. Sh. Mahavir Jha r/o 223, B-4 Prayatan Vihar, Vasundhara Enclave, Delhi-110096.
3. ARCS (T/C) Section-5 O/o RCS.
4. Incharge Computer Cell to upload on Website department.


21/08/2023
Krishan Kumar
Registrar Coop. Societies