

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

No.F.107338047/RCS/H-Sec-4/2022/6134-6144

Dated: 22/9/2023

In the matter of:-

SH. DEVENDER KUMAR (M.S.No.11)

.....COMPLAINANT

VERSUS

Members Present in Committee Meeting

held on 27th June 2014 and 27 March 2016

(In Reg: MAHARISHI DAYANAND CGHS LTD.)

.....RESPONDENTS

**ORDER**

This order shall dispose of the Proceedings initiated vide Show Cause Notice dated 15.11.2022 issued Under Section 121 (2) of DCS Act, 2003 r/w Section 118 of DCS Act, 2003.

Whereas, a complaint vide diary no. 48706 on 03.10.2017 was received from Sh. Devender Kumar, Membership No. 11 of Maharishi Dayanand Co-operative group Housing Society Ltd., wherein he has mentioned that the complaint is against the disputes touching the constitution, management and business of Maharishi Dayanand Co operative group Housing Society Ltd. The Complaint has 02 parts and the details of complaint are as under:

1. Change of nomination out of blood relation:

In the complaint he has mentioned that the Secretary of the society had approved the nominations in respect of 13 members outside blood relations. The names of the members and their nominees whose nominations were made outside blood relations as per complaint are as under

**Name of all Members**

**Name of Nominees**

(a) Sh. Arun Kumar

Sh. Aditiya Sethi

(b) Sh. Tarsem Singh Kajla

Sh. Parwanjay Kumar

(c) Sh. Panna Lal

Sh. Abhinav Sethi

(d) Sh. Vikash Panchal

Smt. Rajinder Kaur

(e) Smt. Kamlesh Chaudhary

Smt.Parvinder Kaur Mann

(f) Sh. Yashpal Singh

Smt. Ramani Sharma

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- (g) Sh. Kalu Ram
- (h) Sh. Himanshu Bhardwaj
- (i) Sh. O.P. Diwan
- (j) Smt. Neelam Kumari
- (k) Sh. Ajeet Singh
- (l) Sh. Leela Ram
- (m) Sh. Dev Dutt Sharma

- Smt. Daljeet Kaur
- Sh. Sukh Chain Singh
- Sh. Vinod Prakash
- Sh. Deepak Sharma
- Sh. Anmol Sodhi
- Sh. Siddharth Jain
- Smt. Sangeeta Gupta

Sh. Devender Kumar has mentioned that those members who have sold their memberships to the nominee made in two meetings of Managing Committee. The names of those members of the committee who were present in such two meetings are as follow:

**Committee Meeting held on 27th June 2014.**

- (a) Dr. Gyanendra Kumar - President
- (b) Sh Yogesh Kumar - Secretary
- (c) Sh. Kishan Goel - Joint Secretary
- (d) Sh. Ved Prakash - Member
- (e) Sh. Azad Singh Rathi - Member
- (f) Sh. O.D. Chawla - Member

**Committee Meeting held on 27 March 2016**

- (a) Sh. Kishan Goel - President
- (b) Dr. Gyanendra Kumar - Secretary
- (c) Sh Raj Rani Goyal - Treasurer
- (d) Sh. Azad Singh Rathi - Joint Secretary
- (e) Sh. Mehtab Singh Saini - Member
- (f) Sh. O.D. Chawla - Member
- (g) Sh. Manish Tanwar - Member

2. Illegality in Handing Over, the Complete Charge and all records to the Successive Committee. Sh. Devender Kumar has mentioned in the complaint that, Dr. Gyanendra Kumar was elected as President of the society on 29 April 2012. Then outgoing President Sh. Lekh Ram Suman handed over 25 important documents including "Original Exchange Deed" of society land on 18 May 2012 to the elected President. Similarly other 25 documents were handed over to Sh. Yogesh Kumar, the newly elected Secretary of the society on 24 June 2015. These documents except keys were not handed over by them to the Administrator on 21 June, 2015.



The original exchange deed and the original sanction letter of Layout and Building Plan are very useful for the purpose of property dealing in the society.

This office vide letter no. 107338017/Sec-IV/RCS/1296, dated 20.11.2017 sought comments on the complaint from the President/Secretary of the society. Sh. R.S. Rathee, the then President of the Society sent comments on the complaint of Shri. Devender Kumar vide letter dated 30/11/2017 in which he stated that, the previous Managing Committee in its meeting held on 27.06.2014 under the chairmanship of Dr. Gyanendra Kumar the then President and after that he become the Secretary of the society, had approved the nominations in respect of 11 members outside the blood relation against the provisions of the DCS Act and Rules and on 27.03.2016 another meeting was held under the chairmanship of Shri Kishan Goel, the Vice President of the society and he also approved the nomination in respect of 02 members outside blood relations. He submitted that the said change in nominee(s) was done in his absence on 27.03.2016 when he was in USA from 10.02.2016 to 09.04.2016 and further submitted that he had gone through 13 such applications submitted by the members for transfer of nominee(s) outside blood relation and found that the said applications were not exactly as per the format of Form-17 sub-rule (1) of Rule 91.

Further second part of the complaint is about illegality in handing over the complete charge the all records of the society to the administrator on 21.06.2015 by Dr. Gyanendra Kumar and Sh. Yogesh Kumar. In this connection the then President of the Society Sh. Gyanendra Kumar has stated that he has filed a dispute u/s 70 of the DCS Act, 2003 in the Court of the Deputy Registrar(Arbitration) vide case no. 79/GH/DR/ARB/2017-18/1165 dated 16.11.2017.

The then President of the Society of MDCGHS Ltd. recommended in his comments that suitable action against the committee member who are responsible for illegal change of nominee(s) may please be taken as per DCS Act and Rules." and in view of the complaint and comments received from the then President of the Society it seems that society has deliberately committed mistakes at the time of nomination of transfer of shares and interest after death of the members beyond blood relation.

Further, Sh. Gyanendra Kumar, the then secretary of the society filed his comments and stated that, the allegations made in the complaints are false, frivolous and baseless. There is no illegality of any kind in the nomination. He reproduced provisions of section 78 of the DCS Act 2003 and submitted that there can be more than one nominee or joint nomination in the blood relation. Evidently, there shall be one nominee at a time outside blood relation where as there can be more than one nominations among blood relations.

He further submitted that the transfer of the interest of the deceased members has been done as per law. It is clarified that all the members who nominated any person outside blood relation are still alive and there has been no change/transfer. Their share/interest would be transferred to their nominee only after their death.

In view of the above, it was noted that as separate replies have been furnished by the President and Secretary in response to this office letter dated 20.11.2017 which are contradictory to each other. Accordingly, Administrator cum Returning Officer of the society was directed to conduct a quick fact finding inquiry vide letter no 107338047/RCS/S-IV/2019/482 dt 29/08/2019 and furnish a detailed report alongwith the copies of relevant documents and his comments within 15 days to initiate further action in the matter.

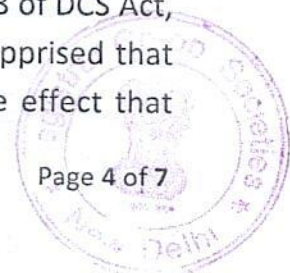
Further, a detailed report was received from the Administrator wherein the Administrator has concluded the report stating that "above mentioned 11 applications submitted by the members for transfer of nominee outside blood relations are not exactly as per the format of FORM 17 of Sub Rule 1 of Rule 91 of DCS Rules. The Attestations of the original members from serial no. 1-11 has been done by SH. D.V.Singh, Asst Civil Engineer (Jawahar Lal Nehru University) on a single date. 20.06.2014, though such verification can be done by a Gazetted Officer knowing the members personally for the last more than 5 years. All these applications have not been entered/ recorded in the office of the society. The Secretary of the society generally should check the applications submitted by the members on Form 17 along with other documents for correctness. Sh. Yogesh Kumar was the secretary in 2014 and Sh. Gyanendra Kumar was the Secretary in 2016. Most of these nominees have paid substantial amount towards cost of construction of the flats in the account of Original members (transferors). All these nominations are void-an-initio as they were done in utter violation of provisions of section 78 of DCS Act, Rule 91 and 2(g) of DCS Rules. Accordingly, Show Cause Notice dated 15.11.2022 under section 118 (5) (6) & (7) of the DCS Act, 2003 read with Section 121 (2) of DCS Act, 2003 against the above mentioned committee members was initiated.

On proceeding dated 24.03.2023, respondents present requested for the copy of complaint of Sh. Devender Kumar which is provided to them.

Whereas, on proceeding dated 18.05.2023 before the undersigned, it was noted as under:

Present Sh. Azad Singh Rathee, Sh. Gyanendra Kumar, Sh. M.L. Chawla respondents in person alongwith advocate Sh. D.S. Chaudhary.

Sh. D.S. Chaudhary, Advocate seeks attention of the court to Section 78 of DCS Act, 2003 and Rule 91 read with Rule 30 of DCS Rules, 2007. He further apprised that the contents of the complaint related to nomination is wrong to the effect that



Society has not given any approval and also that the said 13 nomination has been rejected/cancelled by this office. He further argued that at the moment he is not going on merit of rejection and only limiting his submissions to contents of complaint.

With respect to para 9 of the complaint, With respect to allegation in para 9 of the complaint that Dr. Gyanendra Kumar was elected President of the Society on 29<sup>th</sup> April, 2012. Then outgoing President Sh. Lekh Ram Suman handed over 25 important documents including "Original Exchange Deed" of Society land on 18<sup>th</sup> May 2012 to Dr. Gyanendra Kumar. Similarly, other 25 documents were handed over to Sh. Yogesh Kumar, the newly elected Secretary of the Society on 24<sup>th</sup> June 2015. These documents except keys were not handed over by them to the Administrator on 21<sup>th</sup> June 2015, the Original Exchange deed and the original sanction letter of layout and Building Plan were brought by them in a dramatic way on 19<sup>th</sup> August 2016 when there was a requirement of showing these documents to the Bank for sanction of home loan to the members. These two documents were kept by them in their custody at home without intimating the whereabouts of these documents to the Society. The two documents are very useful for the purpose of property dealing in the Society. Therefore, Sh. Gyanendra Kumar and Sh. Yogesh Kumar should be held responsible for this wrongful act of concealing the most important documents of the society. A suitable action should be taken against both of them.

Ld. Advocate has submitted that the complainant has no locus standi and more so in the complaint dated 22.09.2017 he has not revealed the fact that the complaint of Col. Rathi on this very issue of handing over of the charge has already been taken care of in Order of DCT dated 30.04.2019 and Arbitration Order dated 27.02.2018.

With regard to Show Cause Notice on complaint regarding the approval of layout plan Advocate for the Respondents submitted that this aspect does not lie with Ld. RCS. However, for the information he submitted that land was allotted in 2009 and layout plan passed in 2012. With regard to Show Cause Notice on complaint regarding the approval of layout plan Advocate for the Respondents submitted that this aspect does not lie with Ld. RCS. However, for the information he submitted that land was allotted in 2009 and layout plan passed in 2012.

He prayed for withdrawal of Show Cause Notice considering his above submissions under Section 118 (5), (6) & (7) of DCS Act, 2003.



The undersigned has examined the Section 78 of DCS Act, 2003 which provides that,

*"78. (1) Every member of a co-operative housing society shall nominate a person or persons to whom in the event of his death his right and interest in such co-operative housing society shall be transferred.*

*(2) The member of the co-operative housing society shall have right to change the nomination at any time.*

*(3) There shall not be more than one nomination subsisting at any time:*

*Provided that joint and more than one nomination within the blood relation shall be permissible."*

Whereas, Rule 91(1) of DCS Rules, 2007 reads as under:

***Provision for nomination-***

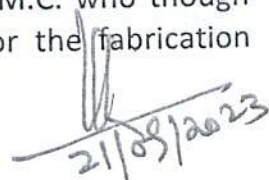
*(1) A member of a co-operative housing society may nominate a person or persons within blood relation to whom in the event of his death his right and interest in the co-operative housing society shall be transferred. Joint and more than one nomination with the blood relation shall be permissible. The nomination shall have to be made in writing in the Form No.17, in triplicate by the member in the presence of two witnesses and it is to be entered in the books of the co-operative housing society kept for the purpose.*

It is a fact that nominations forms were filled up by all those 13 members who made the nomination beyond the blood relation in the altered Form 17 which is not exactly as per Format provided in Form 17 of Sub Rule(1) of Rule 91. In the said applications there is no mention of Rule 91 and words like "within Blood Relations", the table given under Para 4 is totally omitted. In the said table name of nominee(s) along with father/Husband names, address and PAN Number, relationship with the nominees(s), the share of each nominee and DOB of the nominee are given. It is evident that submitted Form 17 was in incorrect format contrary to format as per DCS rule in order to carry out illegal nomination outside blood relations by suppression of facts by the members who submitted false nominations duly identified by the witnesses and the society Management Committee who has the responsibility to check the forms submitted by the members had not properly verified the applications and approved the above mentioned illegal nomination in gross violation of DCS Act and Rules. Further, the Enquiry Officer has also pointed out that many of the nominees have paid substantial money in the society towards various demands raised by the society.

Furthermore, it is pertinent to mention that the nomination is effective after death of member & no during lifetime to transfer the share or interest of member is Society. Noticeably at a later stage all these nominations were cancelled by present M.C & cancellation has been duly communicated to those members with due intimation to this office.



The above mentioned conduct of the Managing Committee as well as of the members concerned is not as per the essence of DCS Act and Rules. It is also a fact that the present M.C. has already cancelled those incorrect forms. Therefore, no further action is required for under any provision of the DCS Act. Further it is pertinent to mention that Provision of section 118 are not attracted in the given facts of the present case for granting the sanction against the M.C. of the society for its near attempt in violation of the act and rules made thereon which is done by the delinquent members and not by the M.C. against whom the sanction has been sought. Therefore, no sanction against can be granted against M.C. who though acted negligently. The M.C. member cannot be prosecuted for the fabrication which they have not done. Ordered accordingly.

  
21/09/2023



Registrar Cooperative Societies

To: Members Present in Committee Meeting held on 27th June 2014 and 27 March 2016

1. Dr. Gyananendra Kumar
2. Sh Yogesh Kumar
3. Sh. Kishan Goel
4. Sh. Ved Prakash
5. Sh. Azad Singh Rathi
6. Sh. Raj Rani Goyal
7. Sh. Mehtab Singh Saini
8. Sh. Manish Tanwar
9. President/ Secretary of Maharishi Dayanand CGHS, B-4, Vasant Kunj, New Delhi-110070 with the direction to serve upon all the above mentioned committee members of the respective periods and provide acknowledgment of the same.
10. ARCS (Housing Section-4) O/o RCS.
11. In charge Computer Cell.