

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

F.No.47/1255/GH/Sec-6/RCS/2021/6112-6117

Dated: 21/09/2023

**ORDER**

In the matter of:-

Quetta Coop. Group Housing Society. Ltd  
(Through Administrator)

.....Complainant

VERSUS

Sh. P.C. Hembram  
Sh. B.S. Arunachalam  
Sh. Prabhakar Das

.....Respondents

This order shall dispose of the proceedings initiated vide Show Cause Notice dated 16.03.2021 issued under section 118(1) (3) & (6) r/w section 121 of DCS Act, 2003 against Ex-Managing Committee members of the society.

Whereas, Sh. Arun Kumar, SDM (HQ), South West, Kapashera was appointed as the Administrator in the Quetta CGHS Ltd. (herein after referred to as the said society) U/s 37 (1) of the DCS Act, 2003 vide this office order dated 23.05.2018.

Whereas, the said society vide letter dated 29.06.2018 submitted that it is not in agreement with the decision of RCS to appoint the Administrator. Further the erstwhile committee had filed an appeal bearing no. 117/2018/DCT before the Delhi Cooperative Tribunal against the order dated 23.05.2018 passed by the Ld. Predecessor of this court. However, the said appeal was dismissed in default on 22.07.2019 due to non prosecution.

Whereas, Sh. Arun Kumar, Administrator approached the RCS office U/s 38 of the DCS Act, 2003, wherein, Sh. Arun Kumar, Administrator has submitted that after taking charge of the society as Administrator, he has time and again requested the members of the Ex-MC to hand over the entire charge and records of the society e.g. Minutes Book, Register of application for membership. Membership Register, Share Allotment Register, Cash Book, Receipt Book, Voucher File, Ledger of Borrowings, Register of Dividend etc, but no record was handed over to him by the said society. Further, the concerned ARCS vide this office letter dated 01.01.2019 had requested the Divisional Commissioner to initiate action U/s 38 of DCS Act, 2003.



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03/09/23



Whereas, now a complaint has been filed U/s 118 (1) & (3) of DCS Act, 2003 read with Section 121 of the DCS Act, 2003 by Sh. Anil Kumar, Advocate on behalf of Sh. Arun Kumar, Administrator of Quetta CGHS Ltd. against Sh. P.C. Hembram, Ex-President, Sh. B.S. Arunachalam, Ex-Secretary and Sh. Prabhakar Das, Ex-Treasurer of the Quetta CGHS Ltd. for non-handing over of any charge or record of the society despite repeated requests and reminders.

Whereas, Sh. Arun Kumar, Administrator has prayed for the prosecution of the respondents for the offence committed by them under the provision of Section 118(1), 118(3) of the DCS Act, 2003 and for the grant of sanction to the petitioner society to prosecute the respondents for the offence of criminal breach of trust committed by them before the concerned Metropolitan Magistrate.

Sh. Arun Kumar, Administrator has also alleged that Sh. P.C. Hembram, is representing himself as the President, Sh. B.S. Arunachalam is representing himself as the Secretary and Sh. Prabhakar Das is representing himself as the Treasurer of the Society and also used the letter heads of the society illegally and unlawfully while writing letter dated 29.06.2018. Hence, all the three above named are misusing the records of the society for which they are liable to be prosecuted u/s 118(6) of the DCS Act, 2003

Accordingly, Show Cause Notice u/s 118(1)(3) &(6) was issued against Sh. P.C. Hembram, Sh. B.S. Arunachalam and Sh. Prabhakar Das.

Whereas, on proceedings dated 24.08.2021 before the predecessor of this court it was noted as under:

*Present Sh. Anil Kumar Advocate on behalf of complainant Society. He was earlier representing Sh. Arun Kumar, Ex-Administrator. He states that the current Administrator Sh. Tej Pal Singh had telephonically asked him to attend the proceedings today. He is directed to file the Power of Attorney from the current Administrator and reiterates that the earlier complaint filed by Sh. Arun Kumar u/s 118(1),118(3) of DCS Act, 2003 against the ex-managing committee of the society will be followed up by new Administrator. The allegations contained in the complaint continue to be still in force and he has not been given the records of the society.*

*The Ex-Management Committee of the society is represented by Ms. Namita Roy Advocate and Sh. B.S. Arunachalam, Ex-Secretary, Sh. P.C. Hembram, Ex-President and Sh. Prabhakar Das, Ex-Treasurer. They are ready to hand over record and also seek time to file reply on the contents of the show cause notice issued on 16.03.2021. The Ex-Managing Committee is directed to file the reply to the notice within 15 days with a*





*copy to the counsel for the complainant. They are further directed to handover the record to the current Administrator within 07 days and submit the intimation about the same to this Court. Sh. Tej Pal Singh, present Administrator is directed to facilitate handing over/taking over of the records from Ex-Managing Committee of the society. In case the records cannot be handed over within 07 days on account of Administrator not facilitating handing over/taking over of records the complainant society will apprise this Court for necessary direction.*

Whereas, the Smt. Namita Roy, Advocate for respondents filed reply dated 08.09.2021 to the Show Cause Notice dated 16.03.2021 wherein she submitted that:

- (i) The complaint dated 26.10.2020 filed by the Ex Administrator of the Petitioner Society are wrong and false hence denied save and except what are a matter of records and what is specifically admitted herein. The complaint filed by the Ex Administrator, the Ex Administrator admits to resuming charge of the Petitioner Society, admitting to the fact that the Ex Administrator was not in charge for a while after having admittedly taken charge of the Petitioner society, thereby admitting to deserting of his office on his own. It is vehemently denied that the Ex-Managing Committee members did not hand over records of the Petitioner Society over to the ex administrator. It is submitted that since the beginning the Ex Administrator was given full access to the entire office, all computers, all almirah's, keys, drawers and every other aspect that was previously being used to administer the Society. The fact of the matter is that the Ex Administrator did not perform its functions of the society and kept raising unreasonable demands from the Ex-Managing Committee members who having no access to the records in the Society office anymore could not be expected to grant anything. Further with a view to creating false and frivolous grounds for showing mismanagement of society, the Ex Administrator made it a rule to periodically keep sending letters to the Ex-M.C. to create false grounds against them.
- (ii) After efforts coerced by the Ex Administrator by engaging the office of the Divisional Commissioner, GNCT and SDM, Sec-10, Dwarka nothing was recovered from the Respondents. That it is an inescapable fact of the matter that there is nothing to recover and the Ex Administer already had access to all records. It is a ploy on behalf the Ex Administrator to create an elaborate screen and paint the Ex-Managing Committee as culprits, who were admittedly unhappy with the appointment of an Administrator. That the Ex Administrator himself failed in his job to administer the Society towards the benefits of its members and has unfortunately chosen to not only vilify the





Ex-Managing Committee but to also create false grounds for their prosecution in the face of Ex-Administrator's own clear failure of its statutory duties.

- (iii) It is submitted that unfortunately the Ex Administrator has not been performing its duties as mandated under the act and had instead chosen to go after ex-members. Of the 2 years and 10 approx months that the Ex Administrator has been administering the society, elections have not been initiated and audits of the books have not been done. That with a view to hide these failings the Ex Administrator has been needlessly and pointlessly targeting ex-Managing Committee. It is denied that the respondents are liable to be prosecuted under Sec 118(1) of the DCS Act. It is submitted that there ought to be oversight over the operations being run by the Ex Administrator, who has become so empowered that none of its actions can be brought into question. Instead, the Ex Administrator has been ruthlessly gunning for Ex-Managing Committee members in light of its own failings.
- (iv) It is pertinent to mention that the records have now been formally handed over to Sh. Tejpal Singh on 5/9/2021 the copy receipt of files seized by the CBI on 21/08/2006 is also Annexed.
- (v) It is denied that the Ex-Managing Committee members of the society have retained any records of the society with them without any authority or have committed an offense of criminal breach of trust and that the respondents are liable to be prosecuted for the same. It is denied that the Ex-President, Ex-Secretary, Ex-Treasurer of the society represented themselves as President, Secretary or Treasurer.

Thereafter, Sh. Anil Kumar, Advocate filed rejoinder dated 22.08.2022 on the reply of the respondents wherein he submitted that:

- (i) The respondents have not placed on record to show that the entire record was handed over to the Administrator of the society at any time. In fact, on 23rd May, 2018 the Administrator was appointed in the Society, however on 29th June, 2018 the superseded Managing Committee of the Society wrote a letter to Sh. Arun Kumar, Ex-Administrator that they are not in agreement with the decision of the RCS, Delhi regarding appointment of the Administrator and they requested the Ex- Administrator not to visit the Society for taking the charge from the committee. It is further to submit here that the Superseded Managing Committee including the respondents have also filed an appeal against the Orders passed by the office of the RCS, Delhi for appointment of the Administrator before the Hon'ble Delhi Cooperative Tribunal, which had also been dismissed on 27th July, 2019.



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- (ii) It is further to submit here that even till today the Ex-Managing Committee, wherein the respondents were member, did not hand over the following record to the Administrator of the Society (i) outstanding amount of Society members as on 20th June, 2018 (ii) maintenance receipts book w.e.f. 25.07.2013 to 20th June, 2018. It is further to submit here that in the absence of the above record it is not possible for the petitioner Society to prepare the list of defaulter members due to which the elections of the petitioner Society are delayed.

Whereas, on proceedings dated 11.05.2023 before the undersigned, it was noted as under:

*“Present Sh. Prabhakar Das, Sh. B.S. Arunachalam and Sh. P.C. Hembram, Respondents in person.*

*Present Sh. Anil Kumar, Advocate for the Administrator of the society.*

*As directed in last hearing that an observer be sent to the society to verify the claim of the Ex-Managing Committee regarding handing over of the Records. Accordingly, Sh. Ankush Mann has been appointed as observer to inspect the availability of two records i.e. 1. Outstanding amount of Society members as on 20.06.2018 and 2. Maintenance receipt book w.e.f. 25.07.2013 to 20.06.2018. As per the report of Sh. Anuksh Mann, Observer w.r.t. to first point he stated that the Ex-M.C have submitted the outstanding amount of society members/defaulters members list upto 01.04.2018 and from 01.04.2015-20.06.2018 record is not being submitted by the society and w.r.t. second issue he stated that as per the correspondence between the Ex-MC and the Administrator, it has been found that the Ex-MC have not submitted the maintenance receipt book w.e.f. 25.07.2013 to 20.06.2018 as there is no receiving of the Administrator with the Ex-MC.*

*Sh. B.S. Arunachalam, Ex-Secretary submitted that the society record/accounts were computerized using “accounting software tally” in society computer. No manual records were maintained.*

After perusal of the submissions made by the parties and the observer report wherein the observer clearly mentioned that Ex-M.C., failed to provide maintenance receipt book w.e.f. 25.07.2013 to 20.06.2018. Furthermore, Ex-M.C. also failed to provide the outstanding amount of the members from 01.04.2018-20.06.2018. Ex-MC replied that it had circulated the outstanding amount as on 31-03-2018 to the members and thereafter in May, 2018 Administrator took over the bank accounts of the society, hence, the details regarding the contribution received during quarter April-June, 2018

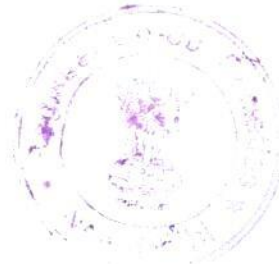





is with the administrator and they have no role in it. Further, w.r.t. the maintenance receipt book, the Ex-MC replied that the records/accounts of the society were computerized using "Accounting Software Tally" in the society computer and no manual records were maintained. Also, as per the Ex-M.C, the old receipts books used & unused were lying in the lower rack of the society almirah and were shown to Sh. Tejpal Singh while handing over records on 05-09-2021 but same were not recorded in the list of files.

In view of the observations made above, it is clear that Ex-M.C. is unable to clarify the status of maintenance receipt book w.e.f. 25.07.2013 to 20.06.2018 and being the custodian of record it is the responsibility of the Ex-MC to hand over the complete record of the society to the subsequent M.C. or the Administrator of the society, which the Ex-MC has not done and it amounts to violation of Section 118(3) of DCS Act, 2003.

Therefore, I find that it is a case fit for prosecution under section 121 of DCS Act, 2003 for the offences by the noticees under section 118(3) of the Delhi Cooperative Societies Act, 2003. Accordingly, the undersigned Registrar of Cooperative Societies in view of power vested U/s 121 of DCS Act, 2003 hereby grant prosecution of Sh. P.C. Hembram, Ex-President, Sh. B.S. Arunachalam, Ex-Secretary and Sh. Prabhakar Das, Ex-Treasurer of the Quetta CGHS Ltd. for non-handing over of complete record of the society despite repeated requests and reminders as requested in the petition. Ordered accordingly.



  
20/09/2023  
**Krishan Kumar**  
**Registrar Coop. Societies**

Date:

F.47/1255/GH/Sec-6/RCS/2021/

Sent To:-

1. Sh. P.C. Hembram, R/o 241, Sri Vinayak Apartment, Quetta Coop. G.H. Society Ltd., Plot No. 5C, Sector-22, Dwarka, New Delhi-110077
2. Sh. B.S. Arunachalam, R/o 294, Sri Vinayak Apartment, Quetta Coop. G.H. Society Ltd., Plot No. 5C, Sector-22, Dwarka, New Delhi-110077
3. Sh. Prabhakar Das, R/o 254, Sri Vinayak Apartment, Quetta Coop. G.H. Society Ltd., Plot No. 5C, Sector-22, Dwarka, New Delhi-110077
4. Administrator, Quetta Coop. G.H. Society Ltd., Plot No. 5C, Sector-22, Dwarka, New Delhi-110077
5. ARCS Housing Section-6 O/o RCS for necessary action.
6. Incharge Computer Cell to upload on Department Website.