

GOVT. OF N.C.T. OF DELHI
OFFICE OF THE REGISTRAR COOPERATIVE SOCIETIES,
PARLIAMENT STREET, OLD COURT BUILDING, NEW DELHI-01

F. No. 47/RCS/Policy/2010/Part File-II/ 138 - 42

Dated:- 20/11/23

Sub: - Minutes of meeting of Rule 90 Committee held on 27.10.2023 at 10:45 AM.

I am directed to enclose herewith the copy of the minutes of Rule 90 Committee meeting held on 27.10.2023 at 10:45 AM for necessary action at your end. Intimation may also be sent to the concerned members individually



ASST. REGISTRAR (POLICY)

F. No. 47/RCS/Policy/2010/Part File-II/ 138 - 42

Dated:- 23/11/23

Copy for necessary action to:-

1. P. S. to Pr. Secretary (Cooperation)
2. P.S. to Registrar Cooperative Societies.
3. P.A. to Spl. Registrar Cooperative Societies/ DRCS
4. Assistant Registrar (Section- 3)
5. In-charge (Computer Cell) to upload the minutes held on 27.10.2023 at 10:45 AM on the RCS website.



ASST. REGISTRAR (POLICY)

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

MINUTES OF THE MEETING OF THE COMMITTEE CONSTITUTED UNDER RULE 90 OF DCS RULES, 2007 HELD ON 27.10.2023 AT 10:45 A.M. UNDER THE CHAIRMANSHIP OF THE PRINCIPAL SECRETARY (COOPERATION), GOVT. OF NCT OF DELHI.

The Meeting of the committee constituted under Rule 90 of DCS Rules, 2007 was held on 27/10/2023 at 10:45 A.M. in the chamber of Principal Secretary(Cooperation & Environment), GNCT of Delhi at 6th Floor, Conference Room, Delhi Secretariat. The Following officers/members of the committee attended the meeting:-

i.)	Sh. A.K. Singh, Pr. Secretary (Cooperation)	Chairperson
ii.)	Sh. Anil Kumar Singh, Registrar Cooperative Societies	Member
iii.)	Sh. T. Philip, Special Registrar Cooperative Societies	Member
iv.)	Sh. Ramesh Kumar, Deputy Secretary (Law Dept.)	Member
v.)	Sh. Sanjay Sharma, D.C.A., Finance Department	Member

Agenda in R/O Sh.Vineet Bhardwaj Of Gulshan E Iqbal CGHS Ltd. (Membership No.398).

It has been apprised to the Committee that the instant case has been placed before the Rule 90 committee in view of a Writ Petition No.10515/2019 Titled Vineet Bhardwaj VS Registrar Cooperative Societies which was filed before the Hon'ble Delhi High Court in 2019. On 24-04 2023 the Hon'ble Court ordered that "Mr. Sameer Vashisth states the case of the petitioner has been recommended to be placed before the Rule-90 Committee and matter be adjourned by four weeks". The case could not be come up for hearing in last two dates. Now the next date of hearing is fixed for 28-11-2023. Hence the Agenda is placed before Rule-90 Committee.

The Brief Facts of the matter of Vineet Bhardwaj is as under: -

- The Gulshan-e-Iqbal Cooperative Group Housing Society Ltd. had published a Public Notice/an advertisement on 23.05.2013 in the daily newspaper Veer Arjun (Hindi) and The Hindu (English), inviting the applications from the public for allotment of a 'D' category flat with 940 Sq. Ft. Super area costing Rs.25 lakhs with the date for submission of

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applications within 15 days from the date of publication of the public notice at 11:00 am to 5:00 pm. In pursuance of this advertisement, the Respondent Society had scrutinized these applications and out of 24 applications, 10 applications had been rejected and 14 applications were found to be selected for draw of lots. It has been found from the minutes of the Managing Committee (MC) Meeting dated 23.06.2013, out of 14 applicants, Shri Vineet Bhardwaj was one of the applicant amongst others.

- The Managing Committee in their minutes dated 23.06.2013 has mentioned that they have held a draw of lot on 21.06.2013 at 04:00 PM after waiting for half an hour for the representative of the Registrar Cooperative Societies (RCS) Office and draw was held. Shri Vineet Bhardwaj was selected as new member of the Respondent Society. In this meeting, the approval was accorded to fill the vacancy of the flat and Shri Vineet Bhardwaj was enrolled as a new member of the society with the issue of allotment cum demand letter in his favour.
- Vide letter dated 07.06.2013, the Society sent a letter to this office informing that, public notice has been given in two leading daily newspapers on 23.05.2013 with the request to send authorized representative of RCS Office on 21.06.2013 for holding draw of all eligible applicant. This office vide letter dated 26.08.2013 informed the Society that the advertisement given by the Society on 23.05.2013 has not been approved by the Competent Authority as the Society has not followed the provision laid down in rule 19(2) of DCS Rules, 2007.
- Thereafter the possession was not given to Shri Vineet Bhardwaj instead a General Body Meeting was called 04.08.2013 wherein it was pointed out that the act of Shri Arvind Sharma, President of Respondent Society was objected and asked him to resign from the post as he has not acted upon in proper and prescribed manner. Consequently Shri Arvind Sharma, President tendered his resignation in the GBM.
- Thereafter Shri Vineet Bhardwaj filed a dispute u/s 70 of DCS Act, 2003 which has been admitted and referred u/s 71 of the Delhi Co-operative Societies Act, 2003 against the Society for allotment for a flat and giving possession as claimed by the petitioner in his claim petition filed before the Ld. Arbitrator who has been appointed under the provisions of the DCS Act, 2003 and after several hearing before the Ld. Arbitrator has passed an Award vide Dated 06.03.2017 and it has been observed that :

"the Respondent Society may take appropriate steps to settle the issue with the claimant in accordance with the provisions under the DCS Act

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and Rules. However, keeping in view of the natural justice to be extended to the Claimant, the Respondent Society may take course of action under the DCS Act and Rules, with the permission of the RCS to regularize the claim of the claimant. Respondent Society may take appropriate action u/s 77 (2) against the then office bearer who had taken such decision against the violation of the provisions of DCS Act and Rules.”

• The Society filed an appeal against the Award passed by Ld. Arbitrator u/s 112(1)(k) before Delhi Cooperative Tribunal on 06.07.2018. Hon'ble Chairman DCT dismiss the appeal with the following directions:

“It is a fit case for innovation of provisions of section 39 of the DCS Act which has been rightly done by Ld. Arbitrator who after making other observations has directed the appellant society to take appropriate steps to settle the issue with claimant in accordance with the provisions of DCS Act & Rules, in order to regularize the claim of RI (claimant) & for handling over the possession of the flat. Ld. Arbitrator has also directed the appellant society to take appropriate action u/s 77(2) against the then office bearers of the appellant society. There is no illegality, infirmity or impropriety in the impugned award. Therefore, the impugned award does not warrant any interference. The appeal is therefore, dismissed.

• Thereafter, General Body of the Society, in its meeting held on 07.10.2018 has approved to initiate action as per the Award/Orders of Ld. Arbitrator/Hon'ble Chairman (DCT) to regularize the membership of Sh. Vineet Bhardwaj.

A request was received from the President of Gulshan-e-Iqbal CGHS Ltd. dated 23.10.2018 regarding regularization of membership of Sh. Vineet Bhardwaj, membership No.398. As per the observations of the then worthy RCS Society was to submit minutes of GBM add on 07.10.2018 and the whether any litigations in this regard is pending at any forum. Vide letter dated 21.06.2019 this office asked the Society to furnish a status report in r/o irregularities done by Sh. Arvind Sharma, the then President of the Society vide its letter dated 02.07.2019 replied that no litigations is pending against Sh. Arvind Sharma. The Society also submitted minutes of GBM add on 07.10.2018.

• Sh. Vineet Bhardwaj filed Writ Petition in the Hon'ble Delhi High Court bearing WP(C) 10515/2019. The matter could not be heard due to Covid-19 pandemic situation. On 21.01.2021 Hon'ble Court of Registrar, Delhi High Court directed that let Respondent No.1 (RCS) file the counter affidavit, if any, within four weeks advance copy to Learned Counsel for the

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petitioner, who may file rejoinder thereto, if any, before the next date. Accordingly, an Affidavit was filed in the Hon'ble Court in September, 2021.

- In para: 8 of Affidavit, it is clearly mentioned that :.....the approval/clearance of membership procedure has to be undertaken by the Respondent No.2 i.e. the Society and it is on the Respondent No.2 to approach the Respondent No.1 for the compliance of procedure and rules for the allotment of membership. That the Respondent No.2 has failed to comply with the Act and rules and provide complete and transparent details to the Respondent No.1, as per the letter dated 21.06.2019, sent by the Respondent No.1 to Respondent No.2 i.e. Society.

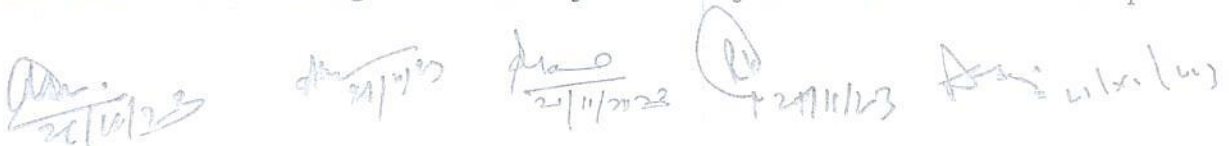
- Due to the pending writ petition the proposal has been approved by the then RCS on 21.04.2023 to place the case before Rule -90 Committee for taking a decision in this regard. Accordingly the Govt. Counsel of RCS had given the statement in the court that the case of the petitioner has been recommended to be placed before the Rule-90 Committee. In the light of statement of Govt. Counsel the matter adjourned and next date of hearing has been fixed for 28-11-2023. In pursuance to the Order dated 24-04-2023.

It was also discussed that the Arbitrator in his award dated 06.03.2017 that *Respondent Society may take appropriate action u/s 77 (2) against the then office bearer who had taken such decision against the violation of the provisions of DCS Act and Rules*. Whereas, the society didn't approach for persuing the matter under Section 77(2) of DCS Act, 2003.

OBSERVATIONS OF THE RULE 90 COMMITTEE:-

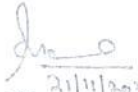
The Committee carefully considered the agenda as placed before it. It was noted that enrolment of Sh. Vineet Bhardwaj as member of the Society was in violation of Rule 19(2) of DCS Rules 2007 as the Vacancy was filled up by the then President of the MC of the Society without presence of even other members of MC and the Society did not comply with the directions of RCS to advertise the vacancy again as per Rule 19(2). Since the enrolment was itself void ab-initio, there is no question of its regularisation.


Moreover the case was not required to be placed before the Committee as RCS has not recommended the case to be in accordance with DCS Act, 2003 and DCS Rules, 2007 being violative of Rule 19 (2) of DCS Rules 2007 as required under Section 77 of DCS Act and Rule 90 of DCS Rules, 2007. RCS, being the Statutory Authority should take action as per

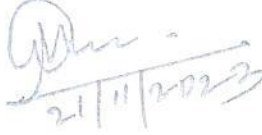
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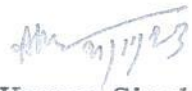
Act and Rules after apprising the Hon'ble High Court and after the matter is decided by the Hon'ble High Court.

The meeting ended with vote of thanks to the chair.


21/11/2023
(Sanjay Sharma), DCA,
(Member)


(Ramesh Kumar), Dy. Secretary
(Member)


21/11/2023
(Dr. T. Philip Thanglienmang),
Special RCS
(Member)


21/11/23
(Anil Kumar Singh),
RCS/Member


21/11/2023
(A.K. Singh)
Pr. Secretary(Cooperation), Chairman