

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

F.No. AR/Sec-6/Coop./RCS/2023/211 - 213

Dated: 27/2/24

Order

Whereas, a petition dated 05.12.2023 has been filed through e-mail by Sh. D.S. Kundu against Sh. C.M. Gupta (Treasurer), Sh. Amit Kumar (Vice-President), Sh. Sikha (President), and Sh. Vivek Singh (Secretary), all members of Managing Committee of Philips CGHS Ltd. Under Section 118 of DCS Act, 2003 read with Section 121 of DCS Act, 2003 and Rules for prosecution for offences committed.

In his petition D.S Kundu has submitted that Auditor on 18.02.2021 submitted grossly qualified audit report for the year 2011-12 to 2013-14 that books of accounts of society, including receipts and payments does not disclose a true and correct view of the operations of the society. Further, qualified his report that financial books are not maintained and authenticated as per requirement of DCS Act and account of individual member not reconciled nor balance confirmed from members.

He has further stated that the society vide letter dated 11.05.2022 confirmed to the office of RCS that Society has not maintained individual account of members properly and list of defaulters cannot be prepared. He has also mentioned that AR (Sec-6) on behalf of RCS filed an affidavit in Hon'ble High Court that account of members of Society are not maintained in the Society and audit of Society for further years could not be conducted for this reason. Furthermore he submitted that on 17-12-2021 DCT directed the society to correct its records qua account of petitioner but society has not yet corrected it account despite directions of DCT and an award was passed in ARB/175/GH/DR/2015-16 on 31-05-2022 in his favour and against the society wherein society is under an obligation to pay to the petitioner an amount of more than Rs 30 Laacs but respondents have neither corrected records of the Society yet nor paid the amount and account position of petitioner is manipulated and falsified contrary to the records of society qua account of petitioner.

Petitioner furthermore submitted that respondent in active connivance with each other and their associates deliberately falsified, fabricated and manipulated records of the society and raised a manipulated bill of Rs. 668874/- as on 01-10-2023 contrary to no amount due from the petitioner and rather society is to pay huge amount to the petitioner as per actual lawful position on that day.

He stated that cause of action arose on 01-10-2023 when falsified, manipulated and fabricated bill reached to the petitioner. Though limitation is prescribed under the act yet the petition is filed with delay.



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Petitioner has prayed to summon and call for the original records from the respondents and verify, grant sanction to institute prosecution of the respondents for offences under section 118 (5) of DCS Act, 2003.


I have reviewed the petition filed by the petitioner and Based on the information provided in the petition filed by Sh. D.S. Kundu against members of the Managing Committee of Philips CGHS Ltd., it appears that there are serious allegations regarding the mismanagement of funds and falsification of records within the society. These allegations include failure to maintain accurate accounts, manipulation of financial records, and non-compliance with directives from regulatory authorities.

However, upon review of the petition, it is noted that both the petitioner and the respondents are engaged in a dispute over dues, complicating the matter. Furthermore, the petition lacks specificity regarding the roles of each respondent in the alleged offenses, making it difficult to determine individual culpability.

While the petitioner has requested the sanction to institute prosecution of the respondents under Section 118(5) of the DCS Act, 2003, it is deemed premature to proceed with such action at this stage. The petitioner has not provided sufficient grounds to support the granting of sanction, and the allegations made appear to lack substantiation.

Therefore, it is concluded that the present application for sanction is not maintainable and is dismissed outright. Further investigation may be warranted to ascertain the veracity of the allegations and to determine appropriate courses of action.




Anil Kumar Singh
Registrar Cooperative Societies

To,

1. Sh. D.S Kundu, Flat No. C-503, Sector-23, Plot No. 3, Dwarka, New Delhi-110077.
2. ARCS, Housing Section-6, o/o RCS.
3. Computer Cell.