

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

F.NO. 47/237/GH/Coop/107489857/548-52

Dated:- 19/04/2024

Order

In the matter of

Smt. Seema Mehra

Petitioner

Versus

The Chetak CGHS Ltd
Through its President / Secretary

Respondents

This order shall dispose of the proceedings initiated vide Show Cause Notice dated 13.07.2023. Whereby Management Committee of the Chetak Cooperative Group Housing Society Ltd. was called upon to explain why it should not be superseded u/s 37 of DCS Act, 2003.

Brief fact of the case are that the respondent society i.e. Chetak Cooperative Group Housing Society Ltd. (hereinafter referred as "Society") Plot No. 27/2, Sector -9, Rohini, Delhi-110085, is registered with the department under the provisions of Delhi Cooperative Societies Act (hereinafter referred as "DCS Act") and Rules framed thereunder.

The complaint dated 06.06.2022, 07.08.2022 and 15.11.2022 was received in this office from the complainant alleging various irregularities and violation of Act and Rules by Managing Committee of the society. President/Secretary of Chetak CGHS Ltd. submitted their reply dated 29.05.2023. On examination of the reply of the Society, various irregularities and violations are observed by this department which are as under:-

- The management of the society did not conducted timely audit of the society as per section 60 of DCS Act, 2003.
- The management of the society did not submit on time the annual return as per section 32 of DCS Act, 2003.
- The management of the society appointed Mr. Ajay Kr. Matta as election officer as per election notice dated 27.09.2018, who was a member of the society which is violation of clause 1(III) of Schedule II of DCS Rules, 2007.



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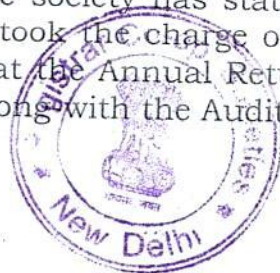
- d. The management of the society has not provided the minutes of MC meeting for every month. Whereas, the MC has to hold MC Meeting every month as per Rule 60 of DCS Rule, 2007.

Accordingly Show Cause Notice dated 13.07.2023 was issued to the Managing Committee of the Society u/s 37 of the DCS Act, 2003 to explain why it should not be superceded.

In response to the above mentioned Show Cause Notice dated 13.07.2023, the respondent society submitted its reply on the last date of hearing i.e. 01.02.2024 and alleged that complaint lodged by complainant, Mrs. Seema Mehra are not only false and frivolous but also full of revenge from the present MC which got elected on 20.03.2022. The complainant lost the election in the year 2014 with the huge margin and subsequently her husband namely Naveen Mehra, who was the part of the Mandir Committee of the Society has tendered his resignation as three more members were added in the Mandir Committee by the Society as per the decision of the MC held on 31.05.2020. Only thereafter the complainant started to lodge the frivolous complaint against the society. Not only this, it appears that the complainant and one or two other members of the society are misled by some of the members of the earlier MC prior to 2010 who has not handed over the charge after they lost the election in the year 2010, which is one of the main cause for delay in conducting the audit by the MC of the society since 2010.

Further, with regard to non conduct of timely audit of the society, the Managing Committee of the society stated that the present MC in its tenure has got conducted the audit of the 2011-12 to 2022-23 from time to time from Apr, 22 to Jan, 24. The Managing Committee of the society has further submitted that Managing Committee of the period prior to the year 2010 had not handed over the complete documents to the newly elected Management Committee of that period. The audit of the society for the period 2011-12 to 2013-14 was allotted to M/s Jitender & Associates with the approval of RCS vide Letter No. 1785 dated 15.01.2016. But they later on the expressed their inability to undertake the Audit for the year 2011-12, 2012-13 & 2013-2014. The previous Managing Committee of the Society has accordingly requested the RCS to change the Auditor. However, the Managing Committee of the society failed to submit any record received from the said Auditor. Further, the record submitted by the society shows that in the minutes of MC meeting held on 01.10.2024 it has been recorded that the Auditor is not responding to the calls of the Management Committee of the Society.

With regard to allegation regarding non submission annual return, the Managing Committee of the society has stated that the delay was not on the part of present MC which took the charge on 20.03.2022. As per the records available, it is observed that the Annual Returns have always been submitted with the Auditors Report along with the Audited financials and are approved by



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Registrar of Cooperative Societies. The society has submitted the Annual Return as per Section 32 of DCS Act along with the Audit Reports of all the years to the RCS. The current management has also submitted Annual Return up to financial year 2022-2023. The claim of the Society regarding timely submission of Annual Reports with the Audit Report appears to be contradictory to their own admission wherein they stated to have submitted the Audit Reports for 2011-12 to 2022-23 during the years 2022-24.

With Regard to Appointment of member of the Society as the Returning Officer to conduct the election of the Managing Committee of the Society, the Managing Committee of the Society has stated that although the current management has nothing to do in the matter related to 2018 but the said Late Sh. Ajay Kumar Matta has been conducting election throughout all the elections held in the society as an Election Officer in the Society since 1990 to 2018. The Managing Committee has further provided the details of the RO as per the available record of the society as under:-

Date of Election	Name of election officer	Member/ Non- Member
23.12.1990	Mr. Ajay Kumar Matta	Member
03.08.1997	Mr. D. K. Srivastava	Member (Ex-President)
14.11.1999	Mr. Ajay Kumar Matta	Member
23.02.2003	Mr. Ajay Kumar Matta	Member
10.12.2006	Mr. Anil Bhola	Non-Member
19.09.2010	Mr. Ajay Kumar Matta	Member
25.07.2014	Mr. Ajay Kumar Matta	Member
27.09.2018	Mr. Ajay Kumar Matta	Member
20.03.2022	i) Mr. Rabindra Kumar Mintri ii) Mr. Anand Jain	Non-member

With regard to allegation of not providing the minutes of MC meeting, the society has submitted that the current management is holding the meeting every month and the Notice of the MC meeting is circulated to MC members and meeting is being recorded in the Proceeding Register.

The Managing Committee of the Society has further stated that even if there is some procedural lapse in the working of the present MC, same is inadvertently, unintentionally and without any malafide intention and is condonable as per section 39 of the DCS Act,

On the other hand, the complainant, vide her submissions dated 31.01.2024 submitted that eight members of the current MC were the members of the erstwhile managing committee elected on 17.08.2014 and 20.10.2018 which failed to get the Audit conducted.



I have gone through the Reply submitted by the Respondent Managing Committee of the society as well as the submissions made by the complainant. It is observed that the Managing Committee of the society is primarily relying on the fact that they were elected only on 20.03.2022 and should not be held liable for the irregularities committed by the previous Managing Committees of the society. However, the documents furnished by the Society shows that eight members of the present Managing Committee out of a total strength of eleven members were the members of erstwhile Managing Committee of the Society.

A similar issue was considered by the Hon'ble High Court of Delhi in WP(C) No. 13026/2019 titled Delhi Nagrik Sehkari Bank Ltd. and Ors. Vs RCS wherein Hon'ble High Court directed the then current Managing Committee of the society to respond to Show Cause Notice. The extract of the said order are reproduced as under:

The present writ petition has been preferred by the petitioner society i.e. Delhi Nagrik Sehkari Bank Ltd. and its office bearers to assail the Show Cause Notice issued by the Registrar of Cooperative Society dated 08.11.2019 under Section 37 (1) of the Delhi Cooperative Societies Act which empowers the Registrar of a Cooperative Society to supersede the Managing Committee of the cooperative society. It is well settled that normally the Court would not interfere with the Show Cause Notice or the proceedings initiated with the issuance of the Show Cause Notice at the preliminary stage. It is for the noticee to respond to the notice, including whatever objections he may have with respect to the Show Cause Notice, in the reply sent by him. Counsel for the petitioner does not dispute this position. He, however, points out that post the issuance of the Show Cause Notice, the elections for the Managing Committee of the petitioner society have been held recently in the year 2021 and a New Managing Committee/Board has taken charge on 18.10.2021. He, therefore, submits that the Show Cause Notice may not survive.

On the other hand, Mr. Narayan states that some of the office bearers who were found guilty of serious misconduct, which led to the issuance of the Show Cause Notice in the first place, are continuing in the Management of the petitioner society. In these circumstances, we dispose of this petition with liberty to the petitioner to respond to the Show Cause Notice with all its pleas. The respondent is directed to examine all the pleas the petitioner may raise in response to the Show Cause Notice. The respondent shall also consider whether proceedings under Section 37 are the appropriate remedy in light of the facts and circumstances of this case.

In view of above directions passed by Hon'ble High Court, it is clear that the proceeding u/s 37 of the DC Act may continue against the Managing Committee of the Society and appropriate orders may be passed as per the facts and circumstances of the case.



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On perusal of the reply submitted by the Managing Committee of the Society and documents furnished by it, it is observed that the MC of the Society is not only constantly flouting provisions of the DCS Act and Rules as alleged by the complainant but also running the affairs on its whims and fancies. The elections of the Society were never held on time from 2003 onwards till date. Even the present Managing Committee elected on 20.03.2022 was six months after the expiry of the tenure of last Managing Committee and the Returning Officer, who was husband of an existing member of the society, failed to obtain any prior permission from Registrar Cooperative Societies for the elections which is required as per Clause 1(iv) of Schedule II of DCS Rules. It is observed that majority of the present MC Members are involved in serious lapses and violations of provisions of DCS Act 2003 and DCS Rules 2007.

The contention of the Managing Committee that even if there is some procedural lapse in the working of the present MC, same is inadvertently, unintentionally and without any malafide intention and is condonable as per section 39 of DCS Act 2003 is legally unsustainable as Section 39 of DCS Act 2003 does not provide immunity to a Managing Committee of a society for its Acts in violation of the provisions of DCS Act 2003 and DCS Rules 2007.

In view of the above facts and circumstances, I am of the considered opinion that the Managing Committee of the Chetak CGHS Ltd., is negligent in the performance of the duties imposed on it under DCS Act and Rules framed thereunder amounting to being prejudicial to the interest of the society and its members. Hence, the Managing Committee of the Chetak CGHS Ltd is hereby superseded u/s 37 of DCS Act, 2003 and Sh. R. K. Kapoor, Section Officer (Rtd.) is appointed as Administrator of the Chetak CGHS Ltd with immediate effect to manage the day to day affairs of the Society and convene the elections of the Society within a period of one hundred and eighty days.

Ordered accordingly.



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(A.K. Singh)

Registrar of Co-operative Societies

Copy to:-

1. President / Secretary, The Chetak CGHS Ltd, Plot No. 8, Sector-23, Dwarka, New Delhi-110077.
2. Smt. Seema Mehra, R/op B-91, Chetak Apartments, Plot No. 27/2, Sector-9, Rohini, Delhi-110085.
3. Sh. R. K. Kapoor, R/o Flat No. A-18, Vishwa Apartment, Plot No. 46, Sector-9, Rohini, New Delhi-110085.
4. Assistant Registrar (Sec.-2/GH), O/o RCS, Parliament Street, New Delhi-110001.
5. Guard File.

6. Computer Cell.