

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

F.NO.47/321/GH/SEC V/2023/PART FILE/2108 - 2112

Dated: 21/9/24

IN THE MATTER OF:

Sh. L.N. Dhawan

Petitioner

Versus

Managing Committee of Nav Nirman CGHS Ltd

Respondent

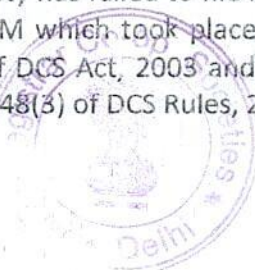
ORDER

This order shall dispose of the proceedings initiated vide Show Cause Notice dated 05.04.2023 issued u/s 37(1) of DCS Act, 2003 against the Managing Committee of the Nav Nirman CGHS Ltd.(Regn. No. 321GH) for not adhering to the provisions of the DCS Act and Rule and consistently violating the same.

The Complainants i.e. Sh. L.N. Dhawan, Sh. Jai Prakash, Smt. Madhulika Goel, Sh. N.K. Srivastava and Sh. R.K. Govil in the complaint dated 16.02.2023 had inter-alia alleged that the MC did not provide the Auditor's Report for FY 2021-22 in the AGBM held on 15.01.2023 and did not provide the video graphed uncut copy even to the RCS. They also alleged that as per Section 32 of the DCS Act the Society is duty bound to submit all prescribed returns to RCS within 30 days after holding the GBM as audited accounts for 2021-22 are one of the mandatory returns which the Society was dutifully and lawfully bound to provide to its members and the RCS.

The above stated Complainants had inter-alia alleged in the complaint dated 16.02.2023 for non submission of returns in compliance of Section 32 of DCS Act and not providing audit report for the Financial Year 2021-22 along with agenda notice dated 28.12.2022 in r/o GBM held on 15.01.2023, thereby violated the mandatory provision of Rule 51(6) of DCS Rules, 2007, which provides that *"the notice of an annual general body meeting shall be accompanied by a copy each of audited balance-sheet, profit and loss account together with the audit objections thereon relating to the preceding year and the report of the committee."*

It has also been alleged in the various complaints that the audit of the account of the Society for year 2021-22 has not been conducted till date thereby violated the mandatory provision of Section 60(1) of the DCS Act, 2003 and the AGBM was conducted on 15.01.2023 but the Society has not yet forwarded the CD pertaining to videography done during the conduct of GBM, thereby, violated the directives issued by the RCS office vide its circular dated 26.12.2019. It is also alleged that the Society has failed to file its Annual Return to the Registrar within thirty(30) days of holding the AGBM which took place on 15.01,2023 thereby violated the mandatory provisions of Section 32 of DCS Act, 2003 and the GBM dated 15.01.2023 was adjourned thrice which is violation of Rule 48(3) of DCS Rules, 2007.



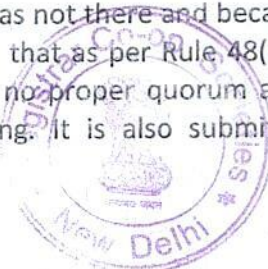
The Management Committee of the Society vide its reply dated 13.04.2023 in response to the Show Cause Notice dated 05.04.2023 has submitted that "the Annual General Body Meeting could not be held within 180 days as the accounts of the Society could not be audited because of the failure to produce the documents by the previous Management Committee and the Ld. Administrator appointed for the period from 15.11.2021 to 28.04.2022 vide order dated 08.11.2021 of the Ld. Assistant Registrar. It is also submitted that the current Management Committee elected on 24.04.2022 had written several letters to the members of the previous Management Committee and to the Ld. Administrator to provide the documents of the expenditure borne by them but did not receive them. Moreover it is submitted that thereafter the present Management Committee has approached the office of the Registrar Co-Operative Societies for appointment of Auditor for the financial year 2021-22 by submitting application through email dated 24.09.22 and 21.10.22 and further vide letter dated 28.10.22, and the Ld. Assistant Registrar vide order dated 24.11.22 has imposed fine of 1500/- on the Society as per Section 60(1) of DCS Act, 2003 and Rule 167 of DCS Rules, 2007 which the Society has duly paid the said fine on 25.11.2022 itself. Thereafter the RCS office vide its letter dated 16.12.2022 appointed M/s Ajay K. Jain & Co. As independent auditor and there were inconsistency pointed out by the auditor and after sorting out all those inconsistency the auditor signed the financials on 25.03.23 and same has been handed over to the present MC.

The Management Committee in reply to the SCN also submitted that it is evident that one of the mandatory purpose to hold the GBM is the consideration of audit report along with the audited accounts and the annual report, therefore since the audit report was not prepared due to the aforesaid reasons, the AGM could not be held within 180 days.

The Management Committee in reply to the SCN also submitted that the audited balance sheet for the financial year 2021-22 could not be circulated along with the agenda notice dated 28.12.22 because the accounts of the Society could not be audited for the reasons as stated above. It is also submitted that since the accounts could not be audited, the MC has circulated the draft Income & Expenditure Account, Receipt & Payments and Balance Sheet for the financial year 2021-22 by following the principles of transparency.

The Management Committee in reply to the SCN submitted that, inadvertently the MC failed to submit the CD of videography of the AGM held on 15.01.23 in the RCS office since the MC was assisting the Auditor to complete the audit of the accounts of the Society and the CD could not be uploaded on the website as the same is under construction and it is only the present MC who has taken initiative to create website of the Society for creating transparency in the working of the Society and the pen drive of the videography of the AGM has been submitted to the RCS office on 10.04.23.

The Management Committee in reply to the SCN submitted that the AGBM was adjourned thrice since proper quorum was not there and because of the same the meeting was adjourned thrice. It is further submitted that as per Rule 48(1)&(2) of the DCS Rules, 2007 no meeting can be commenced if there is no proper quorum and minimum 1/3<sup>rd</sup> members are required for commencement of meeting. It is also submitted that before adjourning the



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meeting for another time the MC has consulted the Observer and also taken the approval of members present at that time and it is evident from the videography submitted to this Office.

I have gone through the allegations leveled by the complainants, reply submitted by the Society as well as relevant documents annexed by the Society. Although the Managing Committee of the Society sometimes has failed to timely comply with the provisions contained in DCS Act and Rules while managing the affairs of the Society. However, the delay on the part of the Managing Committee to fulfill their statutory duties cannot be held as a ground to supersede the Managing Committee of the Society.

In view of the abovementioned facts and circumstances, I am of the considered opinion that no grounds are made out for supersession of the present managing Committee of the society u/s 37 of DCS Act 2003. Hence the proceedings initiated vide Show Cause Notice dated 05.04.2023 issued u/s 37(1) of DCS Act, 2003 are hereby dropped. However, the Managing Committee of the Society is hereby directed to strictly comply with the provisions contained in DCS Act and Rules while managing the affairs of the Society and also ensure that the spirit of cooperation prevails between the Managing Committee and the members of the Society.

Ordered accordingly.



(Anil Kumar Singh)  
Registrar Cooperative Societies

To

- 1 President/Secretary, Nav Nirman CGHS Ltd, Ankur Apartments, Plot No 7, I.P. Ext, Delhi-110092
- 2 Sh. L.N. Dhawan, Sh. Jai Prakash, Smt. Madhulika Goel and Sh. N.K. Srivastav(through President/Secretary) Nav Nirman CGHS Ltd., Ankur Apartments, Plot No 7, I.P. Ext, Delhi-110092
- 3 Asstt. Registrar (G/H Section-IV), O/o RCS, Parliament Street, Old Court Building, Delhi – 110001.
- 4 Asstt. Registrar (Computer Cell) with the request to upload the order on the departmental website.
- 5 Guard File

(Anil Kumar Singh)  
Registrar Cooperative Societies