

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

F.NO.ARCS/SEC-III/GH/2020-21/19 81-1996

Dated: 28/12/21

IN THE MATTER OF:

Sh. Umesh Joshi

Complainant

Versus

Former Managing Committee of the Media CGHS Ltd.

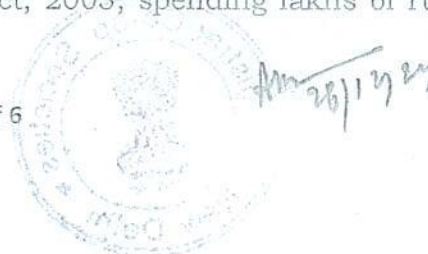
Respondent

ORDER

This order shall dispose of the application/Complaint filed by Sh. Umesh Joshi u/s 118 of the DCS Act 2003 for grant of prosecution sanction against the members of Ex-Managing Committee of the Media CGHS Ltd. for the period 2011-14 and 2014-17 for violating various provisions of DCS Act and rules and not diligently doing their duties entrusted to them as pointed out by the inquiry officer, Shri M. C. Jha and Sh. Vinay Kaushik in their report dated 29.06.2021 and 06.05.2022 respectively submitted in this office under the provisions of DCS Act and Rules.

The brief facts of the case is as under:-

The applicant has earlier filed a complaint wherein it was stated that the erstwhile Managing Committee of the society elected for the period 2011-14 and 2014-17 had committed various illegalities like tampering of Minutes of SGBM held on 22.09.2013, tampering of financial statement of the society by issuing two balance sheets for the Financial Year 2013-14, illegal construction of 4th room without inviting bids by publishing advertisements in two language newspapers and without approval of map by concerned department i.e. DDA, submissions of Audit Reports for the financial years 2011-12, 2012-13, in the RCS office without the approval of GBM violating section 31(N)(c) of DCS Act, 2003, spending lakhs of rupees



during FY 2013-14 without approval of budget from GBM, collection of Building Replacement Fund(BRF) five years earlier from the due date of collection (due date for collection of BRF was not earlier than 2017), abolition of BRF by changing the name as Building Maintenance Corpus with a motive to use the fund for the purpose other than specified in the DCS Act, 2003.

Based on the complaint made by Sh. Umesh Joshi, the office of RCS appointed Sh M. C. Jha as inquiry officer under Rule 158 of DCS Rules, 2007 to conduct an inquiry into the allegations made by the complainant. That Sh M. C. Jha conducted an inquiry by calling the parties to submit their reply to the allegations that were made in the complaint. The inquiry officer after calling reply from Respondents gave his findings and submitted his report (dated 29.06.2021) on 01.07.2021 wherein he has recommended initiation of action under section 118 of the DCS Act, 2003.

That thereafter, the RCS office appointed another Inquiry Officer Sh Vinay Kaushik to conduct an inquiry under Section 66 (1) of the DCS Act, 2003. The inquiry officer called upon the parties and after hearing the parties and going through the records, came to the conclusion that the previous Managing Committee have violated various provisions of DCS Act and have not diligently done their duties entrusted to them. The inquiry officer observed that the former Managing Committee of the Society had spent huge capital expenditure running in crores of rupees without the approval of General Body of the Society and without any transparency. The inquiry officer further concluded that the Managing Committee of the Society had tampered the Minutes of the General Body Meeting held on 02.12.2012 and 22.09.2013 and also issued to different sets of balance sheets for the financial year 2013-14 with differences in amounts in various heads and there are two different sets of audit reports and the same were circulated in two different meetings which is clear proof of tampering and manipulation. Besides, the inquiry officer further pointed out that a fund of Rs. 100000/- (Rupees one lakh) was collected as Building Replacement Fund (BRF) which can be collected only after 5 years from the date of issue of permission to collect but in violation of provisions of DCS Act and



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Rules, a sum of Rs. 100000/- (Rupees One Lakh) was demanded from each member and partly collected at the time of possession of the flat and the same was collected by Respondents (Previous MCs) in different instalments within five years.

The respondents submitted their reply dated 10.09.2024 thereby denying the allegations levelled by the complainant. The respondents further stated that they consistently acted within the boundaries of their authority and always in compliance with the law. The allegations of misuse of authority and engagement in illegal acts for personal benefit are utterly false and defamatory. They further stated that the burden of proof rests with the complainant, and in the absence of concrete evidence, the claims are merely imaginary. As stated in the landmark case of **Shreya Singhal v. Union of India (2015)**, courts in India have a strong duty to protect against "careless or deliberate misuse of the legal machinery of defamation for ulterior purpose". They further stated that though they attended the initial hearings held by the inquiry officer, Mr. MC Jha but subsequently after expiration of their tenure in Managing Committee in January, 2021, they were not informed of subsequent hearings and could not represent their case. They further stated that they are not aware of the submissions made by the Administrator appointed by the office of RCS (in January, 2021) vide his final reply dated 24.06.2021, the text of which was not shared with the respondents.

The respondents further stated that the inquiries have only mentioned lapses and not found us guilty. In fact, "Section 118 (5)" is mentioned nowhere in either Mr. Jha's report or the later report of Mr. Veenay Kaushik u/s 66(1) of the DCS Act. The principle of "the burden of proof rests with the accuser" applies here. Labelling us "guilty" re-empts this legal principle. The respondents again filed written submissions dated 07.10.2024 thereby stating that all the previous Managing Committee of the Society were responsible for the lapses. With regard to the issue of tampering of the Minutes of General Body Meeting, the respondents stated that it is important to note and consider the underlying intent of any overwriting or unsigned/ partially signed strike-outs in handwriting documents that are being construed as "tampering". The text and the



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context where such misdemeanours have occurred need to be examined and considered before adjudication. They further stated that while sending the email version of the Minutes of GBM, Para No.4 could have got left out due to human error and there was no mala-fide intent on the part of Managing Committee of the Society. With regard to the collection of Building Replacement Fund (BRF) the respondent stated that no Building Replacement Fund was ever created by the Society. The General Body Meeting dated 02.12.2012 had resolved to create a "Building Fund" as a corpus by charging each member Rs. 1 Lakh to meet exigencies that can arise whenever large scale maintenance projects, such as repairs and painting of the building. However, the contentions of the respondents that no such Building Replacement Fund (BRF) was collected is wrong as the society had issued demand letter dated 10.01.2014 and further issued receipt dated 13.01.2014 for the said fund as submitted by the complainant.

Besides, the complainant submitted his written submissions dated 09.10.2014 reiterating the allegations levelled by him against the then Managing Committee of the Society regarding tampering of minutes of SGBM dated 22.09.2013 as well as balance sheet for the Financial Year 2013-14, the complainant further submitted relevant minutes of SGBM and the balance sheet for the Financial Year 2013-14.

I have gone through the application filed by the petitioner, reply submitted by the society as well as the written submissions filed by the parties. In this regard, it is noted that there has been findings by the inquiry officer regarding tampering of Minutes of General Body Meetings, issuance of two different audit reports for the financial year 2013-14, spending huge capital expenditure running in crores of rupees and collection of a sum of Rs. 100000/- (Rupees One Lakh) as Building Replacement Fund (BRF) in violation of provisions of DCS Act and Rules which can be collected only after 5 years from the date of issue of permission to occupy flat against the erstwhile managing committees and recommendation has been made for initiation of proceedings under Section 118 of the DCS Act, 2003. The



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respondents have failed to produce any documentary evidence in support of their contentions.

In view of the abovementioned facts and circumstances, I am of the considered opinion that the then Managing Committee of the Society is liable to be prosecuted as per the provisions contained in Section 118 of the DCS Act, 2003. Accordingly, I, Anil Kumar Singh, Registrar of Cooperative Societies, Govt of NCT of Delhi, in exercise of the power vested with me under Section 121 of the DCS Act, 2003, read with Section 118 of DCS Act, 2003 hereby grant sanction of prosecution against the respondents for tampering the minutes of the SGBM stated to be held on 02.12.2012 and 22.09.2013 and circulated two Audit Report for the year 2013-14 and other irregularities.

Ordered accordingly.



Anil Kumar Singh
(ANIL KUMAR SINGH)

Registrar of Cooperative Societies

To

- 1 President/Secretary, Media CGHS Ltd., Plot No. 18A, Sector-7, Dwarka, New Delhi-110075 to serve upon the then Managing Committee members.
- 2 Shri Sondeep Shankar, I-3, Jangpura Extension, New Delhi-110014 email id-saabpix@yahoo.com Mb. No. 9811063969.
- 3 Shri Brij Lal Bhardwaj, B-14/5, DLF City, Phase-1. Gurgaon-1220022, Email id- nationalpressagency@gmail.com Mb. No. 9810022029.
- 4 Ms. Rita Manchanda, H-31, Jangpura Extension, New Delhi-110014, email id rita@safhr.org Mb. No. 9810478833.
- 5 Shri Girija Shankar Kaura, 24C, Vaishali Apartment, Kalkaji, New Delhi-110019, Mb.No.9313231211.

- 6 Shri Umesh Joshi, Membership No.192, Flat No.505, Media CGHS Ltd., Plot No. 18A, Sector-7, Dwarka, New Delhi-110075.
- 7 Mr. Sanjay Jha, (President, ex-MC), A-603 Media CGHS Ltd., Plot No. 18A, Sector-7, Dwarka, New Delhi-110075 email id sanjayjhaoffice@gmail.com Mb. No. 9811282046.
- 8 Mr. P. P. Wangchuk (Secretary, ex-MC), B-1004, Media CGHS Ltd., Plot No. 18A, Sector-7, Dwarka, New Delhi-110075 email id. ppwangchuk@gmail.com Mobile No. 9871205879.
- 9 Dr. R. Ramachandran (Treasurer, ex-MC), B-805, Media CGHS Ltd., Plot No. 18A, Sector-7, Dwarka, New Delhi-110075 email id. Bajji01@gmail.com Mb. No. 9811666164.
- 10 Mr. Vivek Dutta Gupta (Member, ex-MC), Media CGHS Ltd., Plot No. 18A, Sector-7, Dwarka, New Delhi-110075.
- 11 Mr. Balbhadra Agarwalla, (Member, ex-MC), B-805, Media CGHS Ltd., Plot No. 18A, Sector-7, Dwarka, New Delhi-110075, email id- balbhadra37@yahoo.com, Mb. No 9971297778.
- 12 Ms. Geeta Sharma (Member, ex-MC), Media CGHS Ltd., Plot No. 18A, Sector-7, Dwarka, New Delhi-110075.
- 13 President/Secretary, Media CGHS Ltd., Plot No. 18A, Sector-7, Dwarka, New Delhi-110075.
- 14 Asstt. Registrar, (G/H Section-IV), O/o RCS, Parliament Street, Old Court Building, Delhi - 110001.
- 15 Asstt. Registrar, (Computer Cell) with the request to upload the order on the departmental website.
- 16 Guard File

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