

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

F.No.47/1255/GH/Sec-6/RCS/2021/1999-2003

Dated: 2/1/25

ORDER

In the matter of:-

Prem Kutir Coop. Group Housing Society. Ltd

.....Complainant

VERSUS

Sh. B.S Thakur

.....Respondent

This order shall dispose of the application/Complaint filed by the Society i.e Prem Kutir CGHS u/s 118(3) of the DCS Act 2003 for issuance of the direction to the respondent i.e Ex-Administrator Sh. B.S Thakur to handover the record of his tenure of the society .

The brief facts of the case is as under:-

On 30.01.2015, the respondent, Sh. B.S. Thakur, was appointed as the Administrator of Prem Kutir CGHS Ltd. for a period of 180 days with the specific mandate to conduct elections for the Managing Committee. However, the respondent continued to hold office until 06.08.2017, when a new Managing Committee was duly elected. Following the elections, the respondent failed to hand over the charge and records of the society to the elected Managing Committee. The petitioner society, through a letter dated 10.09.2017, requested the respondent to hand over the charge and records. Despite this communication, the respondent failed to comply with the society's request.

Aggrieved by this inaction, the society filed a petition under Section 118(3) of the Delhi Cooperative Societies Act, 2003, on 18.02.2018, seeking directions for the respondent to hand over the records of the society. However, this petition was inadvertently not entertained. Consequently, the society, having no other recourse, approached the Hon'ble Delhi High Court on 14.09.2023 by filing Writ Petition (Civil) No. 1184/2023, accompanied by CM Application No. 4670/2023, titled *Prem Kutir CGHS Ltd. v. Registrar Cooperative Societies*.



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In the writ petition, the society prayed for a direction to the Registrar Cooperative Societies (RCS) to ensure that the respondent, Sh. B.S. Thakur, hands over all records of the society, particularly those pertaining to the construction of flats, in compliance with the judgment of the Hon'ble Delhi High Court in Writ Petition (Civil) No. 3971/2011, titled *Suman Pujari v. Registrar Cooperative Societies*. Additionally, the society requested the Hon'ble Court to direct the RCS to take cognizance of the society's petition filed on 18.02.2018 under Section 118(3) of the Delhi Cooperative Societies Act, 2003, and to dispose of the same expeditiously.

In response to the claims made by the Petitioner, the Respondent submits that the letter dated 27.02.2018, written by Shri V.P. Kaushik, the then Secretary of the Society, was superseded by a subsequent letter dated 25.07.2018. This letter identified four key issues requiring resolution, namely: (i) the NOC and allotment of flats (B-28, B-94, E-100) without the recovery of ₹1 lakh, (ii) the enrolment of 13 members, (iii) the minutes of meetings, and (iv) records of Special General Body meetings. The Respondent asserts that the claims based on the 25.07.2018 letter are unfounded, as the financial accounts for the years 2015-2017, including a defaulter list, were duly prepared and handed over to the Society on 08.08.2017. Furthermore, the elections for the new managing committee were conducted on 06.06.2017, and the charge was formally transferred to the new committee on 08.08.2017, as confirmed by the Assistant Registrar. The Respondent denies any involvement in the decisions related to the allotment of flats, as these were made prior to the Respondent's appointment as Administrator in 2015, specifically in 2010 and finalized by the Rule-90 Committee in 2011.

Additionally, the Respondent addresses the issue of the alleged recovery of ₹1 lakh from three members for maintenance fees, noting that this amount was waived by the Society and confirmed through the issuance of NOCs on 22.08.2023. The Respondent emphasizes that these NOCs made clear that no amount was payable under Rule 94(1)(b)(ii) of the Delhi Cooperative Societies Rules, 2007.

As to the issue of membership applications, the Respondent refers to Para 1549, page 413/N, dated 04.06.2015, which documents a communication from the President of the Society regarding the transfer of membership of ten individuals. In compliance with this direction, the Respondent forwarded 15 applications for membership to the RCS office on 20.05.2016. The RCS office approved 13 of the 15 applications, rejecting two due to deficiencies. The Respondent clarifies that, as per Section 37(3) of the DCS Act, 2003, the Administrator does not have the authority to grant membership, and the RCS office's approval was necessary. The Respondent further states that should the Society not have the



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relevant documents, these can be obtained from the RCS office, as copies were obtained from official records.

Regarding Special General Body meetings, the Respondent asserts that no such meeting was convened during his tenure. However, all correspondence and records were maintained by the Society, and if these documents are not in the possession of the Society, they may be procured from the RCS office. The Respondent also highlights that upon assuming charge on 18.02.2015, no records were handed over to him by the previous Administrator, which is corroborated by the charge-taking document.

The Respondent also submits that there have been numerous communications made to recover the Society's records from the prior management and office bearers. Several letters, including those from Shri Rajasekhar, Ms. Alka Dewan(then RCS), and the Assistant Registrar, outline the efforts made to retrieve the Society's records. These letters demonstrate the Respondent's adherence to due process and the persistent efforts to recover the records during his tenure.

The Respondent submits that the petition under Section 118(3) of the DCS Act is time-barred, as the offence, punishable by a fine, cannot be cognized after six months from its commission, per Section 468 of the CrPC. The petition, filed on 25.07.2018, was made over 11 months after the alleged offence, making it time-barred. Additionally, the delay is unreasonable, and the court cannot extend the limitation period due to hardship, as upheld by the Supreme Court in *Popat Bahiru Govardhane v. Special Land Acquisition Officer*.

The rejoinder submitted by the society focuses on the petitioner's grievances against Mr. B. S. Thakur, the Ex-Administrator, for failing to perform his statutory duties and misusing his authority. The allegations primarily include non-handing over of records, violation of statutory guidelines, and negligence in enforcing compliance against the previous Managing Committee. Key documents, such as No Dues Certificates, and communications with the Registrar's office substantiate these claims and demonstrate the deliberate withholding of records by Mr. Thakur.

The rejoinder also counters the respondent's argument of the complaint being time-barred, presenting a timeline of consistent efforts made to retrieve the records and detailing how delays were caused by the respondent's actions. By citing provisions of the Delhi Cooperative Societies Act, 2003, the rejoinder establishes the statutory violations and seeks appropriate relief, including the immediate handing over of records, investigation into irregularities, and accountability for the respondent's actions.



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I have gone through the application filed by the petitioner, reply submitted by the society as well as the written submission filed by the parties. In this regard it is noted that The petitioner, Prem Kutir Cooperative Group Housing Society Ltd., has raised serious concerns regarding the respondent's failure to hand over essential records of the society, particularly after the elections and transfer of charge/record to the new managing committee in August 2017. The issues raised by the petitioner include the non-receipt of financial records, membership applications, and the minutes of meetings, as well as specific records related to the construction of flats.

The respondent, Sh. B.S. Thakur, asserts that all records were prepared and handed over to the society, and denies any responsibility for the non-compliance regarding the allotment of flats and recovery of dues. However, the petitioner disputes these claims, pointing out that the records in question were either not received or deliberately withheld, as indicated in their communications. Moreover, there are conflicting statements regarding the membership approvals and the handling of Special General Body meetings, which further add to the ambiguity of the situation.

Given that the respondent denies responsibility for the alleged violations and the records' non-handing over, it is crucial to establish the true state of the society's documents and financial affairs. Section 61 of the Delhi Cooperative Societies Act empowers the Registrar or any person authorized by them to inspect the books, accounts, and records of the society. This provision is designed to ensure transparency and accountability within the cooperative society.

In this case, the discrepancies between the petitioner's and respondent's accounts regarding the handing over of records, along with the allegations of statutory violations and the deliberate withholding of documents, call for a thorough inspection of the society's records. This will not only clarify the veracity of the respondent's claims but will also ensure that the society's functioning complies with legal provisions, especially concerning financial transparency, membership, and records of general body meetings.

Given the petitioner's consistent efforts to retrieve the records and the ongoing dispute over the facts, an inspection under Section 61 is necessary to verify the correctness of the records and to ensure that all relevant documents are duly provided to the current managing committee. This step will also help determine if the respondent's actions have contravened statutory guidelines and whether the society's records are being unlawfully withheld.

In the view of above mentioned facts and circumstances, I am of the considered opinion that, in the light of the serious discrepancies and conflicting statements made by both the petitioner and the respondent, it is imperative to conduct a



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thorough inspection of the books, records, and accounts of the Prem Kutir Cooperative Group Housing Society Ltd. The petitioner's claims regarding the non-handing over of essential records, financial documents, and membership applications, coupled with the respondent's denial of responsibility, warrant an independent review to verify the correctness and authenticity of the society's records. Given the importance of transparency and adherence to legal obligations, I believe that appointing an Inspection Officer under Section 61 of the Delhi Cooperative Societies Act, 2003, is necessary. The findings from the inspection will provide clarity on the matter and help facilitate a fair resolution of the ongoing dispute. Further, Sh. A.K Kaushal (Retd. DANICS) is hereby appointed as Inspecting Officer U/s 61 of DCS Act to conduct the said inspection, an honorarium of Rs. 15,000/- (Rupees Fifteen Thousand) Only shall be paid to Inspecting Officer for this purpose out of the funds of the society.

Ordered accordingly.



Anil Kumar Singh
Anil Kumar Singh

Registrar Cooperative Societies

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Sent To:-

Date: 2/1/25

1. President /Secteary Prem Kutir CGHS Plot No. 25 Rohini Delhi-110085
2. Sh. B.S Thakur ,A-95 Duggal Colony 25/1 Khanpur /Deoli Road New Delhi-110080
3. Sh.A.K Kaushal (Retd. DANICS) Mob. No. 9868839375 D-11 Seema CGHS Plot No. 07 Sector-11 Dwarka New Delhi--110075

4. Sec - VI

5. Computer Cell.