

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

F.NO.47/GH-1112/AR/SEC-1/GH/RCS/2022 | 3305 - 3308

Dt: 26/5/25

IN THE MATTER OF:

Jagat Singh

Petitioner

Versus

R. C Bagla

Respondents

ORDER

This order shall dispose of the proceedings initiated vide Show Cause Notice dated 23.08.2024 issued u/r 20(1)(c)(1) & (iii) (2) of DCS Rules, 2007 read with Section 87 & 41 (d) of DCS Act, 2003 whereby R.C Bagla was called upon to show cause as to why cessation of membership should not be granted against them U/r 20(1) (c) (i) & (iii) of DCS Rules 2007 read with section 87 & 41(d) of DCS Act, 2003,

The brief facts of the case are as under:-

R.C Bagla was enrolled as a member of the Bhagwati Co-operative Group Housing Society. Ltd (Regn. No. 1112/GH), Plot no. 1A, Sector-22, Dwarka, New Delhi-110075. The petitioner has stated that the respondent is having a residential property in Delhi bearing No. 410 Milan Vihar Apts, 72 I.P Extn Patparganj & 35 Pratap Nagar, Mayur Vihar Delhi, the petitioner accordingly prayed to cease the membership of the respondent on account of disqualification of holding the property bearing property No. 410 Milan Vihar Apts, 72 I.P Extn Patparganj & 35 Pratap Nagar, Mayur Vihar Delhi

In his reply, The respondent, RC Bagla, submitted that the only document filed—a printout from the Delhi Online Registration Information System—does not show ownership of Flat No. 410, Milan Vihar, or 35, Pratap Nagar by the respondent. In fact, Flat No. 410 was purchased solely by his wife, Smt. Rani Bagla, from her own funds via an agreement to sell dated 11.08.2003 and later converted into freehold. Upon her death intestate on 07.10.2016, the property was inherited jointly by the respondent, his son, and two daughters, each receiving a 1/4th share. Subsequently, the respondent and his daughters relinquished their shares to his son via a registered deed dated 13.07.2017. Therefore, the respondent never owned the property directly, and even his inherited share was less than 66.72 sq. meters—well within the exemption limits under Rule 20(1)(c)(i) of the DCS Rules. As for 35, Pratap Nagar, it was a past rental address, never owned by the respondent, and no proof has been provided by the petitioner. Hence, no disqualification arises under the DCS Act or Rules.

It is relevant to read the provisions of DCS Act and Rules in this regard which are as under:

20. Disqualification of membership

(1). No person shall be eligible for admission as a member of a co-operative society if he:-

(c) In the case of membership of a co-operative housing society,

(1) owns a residential house or a plot of land for construction of residential house in any of the approved or un-approved colonies or other localities in the National Capital Territory of Delhi, in his own name or in the name of his spouse or any of dependent children, on lease hold or free-hold basis or on power of attorney or on agreement for sale.

Provided that above clause shall not be applicable,



(a) in case of co-sharers of property whose share is less than 66.72 sq. metres of land or if the residential property devolves on him by way of inheritance:

(b) in case of a person who has acquired property on power of attorney or through agreement for sale and on conversion of the property from leasehold to freehold on execution of conveyance deed for it, if such person applies for the transfer of membership of the housing society concerned


(ii) deals in purchase or sale of immovable properties either as principal or as agent in the National Capital Territory of Delhi, or

(iii) his spouse or any of his dependent children is a member of any other cooperative housing society

It is pertinent to note that in terms of Section 41(3) of the DCS Act, 2003, the Registrar may of his own motion, if satisfied that any member has incurred any of the disqualification under sub section (1) declare through an order in writing that such member is disqualified to be a member.

It is pertinent to mention that there are different judgments on the eligibility criteria for membership in cooperative housing societies when properties are owned by family members. In **R.K. Aggarwal vs. Registrar of Cooperative Societies**, the Delhi High Court examined the impact of property ownership by spouses or dependent children on membership eligibility, while emphasizing the need to assess each individual's financial independence and specific ownership circumstances. Similarly, in **G. Hemant vs. Registrar Cooperative Societies & Ors.**, the Court reinforced that individuals with independent sources of income are eligible for membership, highlighting the importance of evaluating each applicant's financial autonomy and strict compliance with the eligibility criteria under the DCS Act and Rules. Further, in **Smt. Neera Yadav vs. Registrar Cooperative Societies (W.P. (C) 7597/2008)**, the Court held that husband and wife can independently apply for membership if they fulfill the eligibility criteria individually, and ownership of property by one spouse does not automatically disqualify the other. These judgments collectively clarify that mere property ownership by family members does not automatically disqualify an individual from cooperative society membership.

In light of the facts presented and the judicial precedents laid down by the Delhi High Court in **R.K. Aggarwal vs. Registrar of Cooperative Societies**, **G. Hemant vs. Registrar Cooperative Societies**, and **Smt. Neera Yadav vs. Registrar Cooperative Societies**, it is evident that mere ownership of property by a spouse does not disqualify a member from holding membership in a cooperative housing society, provided the member himself does not directly own the property or meet the disqualification criteria under Rule 20(1)(c) of the DCS Rules, 2007. The respondent, R.C. Bagla, has also submitted copies of Income Tax Returns (ITRs) of his late wife, Smt. Rani Bagla, confirming that the property was purchased from her own funds, further substantiating his claim. Given that he relinquished his inherited share in accordance with the law and does not hold direct ownership exceeding exemption limits, his membership cannot be disqualified. Therefore, the membership of R.C. Bagla in the Bhagwati Co-operative Group Housing Society shall be restored forthwith, and the proceedings initiated vide the Show Cause Notice dated 23.08.2024 are hereby withdrawn of accordingly.


Anil Kumar Singh

Registrar Cooperative Societies

Sent to:

1. Sh. Jagat Ram D-407, Sri Durga CGHS Sector -12 Dwarka Delhi-110075.
2. R.C Bagla(Through President/ Secretreay)
3. Assistant Registrar (Sec-1), office of RCS
4. ARCS IT Cell

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

F.NO.47/GH-1112/AR/SEC-1/GH/RCS/2022/3309-3812

Dt - 1-26/5/25

IN THE MATTER OF:

Jagat Singh

Petitioner

Versus

Poonam Sharma

Respondents

ORDER

This order shall dispose of the proceedings initiated vide Show Cause Notice dated 23.08.2024 issued u/r 20(1)(c)(1) & (iii) (2) of DCS Rules, 2007 read with Section 87 & 41 (d) of DCS Act, 2003 whereby Poonam Sharma was called upon to show cause as to why cessation of membership should not be granted against them U/r 20(1) (c) (i) & (iii) of DCS Rules 2007 read with section 87 & 41(d) of DCS Act, 2003,

The brief facts of the case are as under:-

Poonam Sharma enrolled as a member of the Bhagwati Co-operative Group Housing Society. Ltd (Regn. No. 1112/GH), Plot no. 1A, Sector-22, Dwarka, New Delhi-110075 The petitioner has stated that the respondent is having a residential property in Delhi bearing No. 102 Mahajanshree Plot No. 13 Sec-23 Dwarka Delhi ,the petitioner accordingly prayed to cease the membership of the respondent on account of disqualification of holding the property bearing property No. 102 Mahajanshree Plot No. 13 Sec-23 Dwarka Delhi.

In her reply dated 29/10/2024 ,The respondent , submitted that , they are joint members of Bhagwati CGHS Ltd. against Membership No. 793. At the time of applying for membership in 2004, they had fully disclosed ownership of Flat No. 602, Dream Apartments, Sector-22, Dwarka, which is situated in an eight-storey building. The individual land share of each co-owner is significantly below 66.72 sq. meters. This was duly verified by the then Managing Committee of the Society, which admitted them as eligible members under Rule 20(1)(c)(i) of the DCS Rules, 2007.

It is relevant to read the provisions of DCS Act and Rules in this regard which are as under:

20. Disqualification of membership

(1). No person shall be eligible for admission as a member of a co-operative society if he:-

(c) In the case of membership of a co-operative housing society,

(1)owns a residential house or a plot of land for construction of residential house in any of the approved or un-approved colonies or other localities in the National Capital Territory of Delhi, in his own name or in the name of his spouse or any of dependent children, on lease hold or free-hold basis or on power of attorney or on agreement for sale.

Provided that above clause shall not be applicable,

(a) in case of co-sharers of property whose share is less than 66.72 sq. metres of land or if the residential property devolves on him by way of inheritance:



(b) in case of a person who has acquired property on power of attorney or through agreement for sale and on conversion of the property from leasehold to freehold on execution of conveyance deed for it, if such person applies for the transfer of membership of the housing society concerned

(ii) deals in purchase or sale of immovable properties either as principal or as agent in the National Capital Territory of Delhi, or

(iii) his spouse or any of his dependent children is a member of any other cooperative housing society

It is pertinent to note that in terms of Section 41(3) of the DCS Act, 2003, the Registrar may of his own motion, if satisfied that any member has incurred any of the disqualification under sub section (1) declare through an order in writing that such member is disqualified to be a member.

In the landmark judgment of the Hon'ble Supreme Court in **DDA vs. Jitender Pal Bhardwaj**, (2010) 1 SCC 146, the Court examined the issue of eligibility of an allottee in a multi-storeyed building with regard to ownership of land. It was held that when a person acquires a flat in such a building, he becomes the exclusive owner of the flat but only a co-owner of the underlying land. The Court clarified that **the relevant criterion for disqualification under housing rules is the individual's undivided share in the land**, not the size of the flat itself. Therefore, where the individual's proportionate share in the land is **less than 65 square meters**, the disqualification clause is **not attracted**, regardless of the flat's area. This ruling has since served as a guiding precedent for interpreting similar provisions under cooperative housing regulations.

In light of the submissions made by the respondent, the certificate showing that the individual undivided share in the land is below the prescribed limit, and the settled judicial principles laid down by the Hon'ble Supreme Court in DDA vs. Jitender Pal Bhardwaj (2010) 1 SCC 146, it is evident that the respondent owns flat A-602 on the sixth floor of a multi-storeyed building, thereby holding exclusive ownership of the flat but only a co-ownership in the underlying land. The Supreme Court has clearly held that in such cases, the relevant test for disqualification under Rule 20(1)(c)(i) is the individual's undivided share in the land, not the area of the flat itself. Since the respondent's share is significantly less than the prescribed limit of 66.72 square meters, no disqualification arises. Accordingly, the respondent's membership in the Bhagwati Co-operative Group Housing Society Ltd. is restored, and the petition for cessation of membership is dismissed.



Anil Kumar Singh
Registrar Cooperative Societies

Sent to:

1. Sh. Jagat Ram D-407, Sri Durga CGHS Sector -12 Dwarka Delhi-110075.
2. Poonam Sharma (Through President/ Secretray)
3. Assistant Registrar (Sec-1), office of RCS
4. ARCS IT Cell