

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.47/GH-1112/AR/SEC-1/GH/RCS/2022 | 3313-16

Dt 1-26/5/25

IN THE MATTER OF:

Jagat Singh

Petitioner

Versus

Punit Gulati

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 Sh. Punit Gulati was called upon to show cause as to why cessation of membership should not be granted against them U/r 20(1) (c) (0) & (iii) of DCS Rules 2007 read with section 87 & 41(d) of DCS Act, 2003,

The brief facts of the case are as under:-

Sh. Punit Gulati 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 property no. 190 DDA Flats Pocket -01 Sec-01 Dwarka Delhi-75. The petitioner accordingly prayed to cease the membership of the respondent on account of disqualification of holding the property bearing property no. 190 DDA Flats Pocket -01 Sec-01 Delhi-75.

The respondent vide his reply dated 12.09.2024 stated that he has not violated the Rule, 20 (1) (c) (1) & (ii) (2) of DCS Rules, 2007 read with section 87 & 41 (d) of DCS Act, 2003. The respondent further stated that the restriction laid down under Rule 20(1)(c)(i) of the Delhi Cooperative Societies Rules, 2003 has been expressly relaxed by proviso (a) to Rule 20(1)(c)(i) of the Delhi Cooperative Societies Rules, 2007, which provides that in the case of a co-sharer of a property whose individual share is less than 66.72 square meters, the disqualification mentioned in the main provision shall not be attracted. It is submitted that Dr. Punit Gulati, the concerned individual, is a co-sharer along with other owners of three flats located on three separate floors of a four-storied building situated on the same parcel of land at DDA Flats, Pocket-1, Sector-1, Dwarka, New Delhi-110075. The individual share of Dr. Punit Gulati in the said property is significantly less than 66.72 square yards, and as such, no disqualification is incurred under the relevant provision. The Respondent further submits that this position is fully supported by the judgment of the Hon'ble Supreme Court in *Delhi Development Authority vs. Jitender Pal Bhardwaj* [(2010) 1 SCC 146], wherein the Hon'ble Court, while adjudicating a similar issue concerning the eligibility of a co-sharer for allotment of a DDA flat, held that the disqualification under the main provision is not applicable in cases where the individual share is below the prescribed threshold.

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.

The respondent, Dr. Punit Gulati, submitted that he is a co-sharer, along with three other owners, in a four-storeyed residential building situated in DDA Flats, Pocket-1, Sector-1, Dwarka, New Delhi-110075. Each of the four owners holds one flat, and accordingly, his individual share in the underlying land is significantly less than 66.72 square yards, which is the maximum limit prescribed under proviso (a) to Rule 20(1)(c)(i) of the Delhi Cooperative Societies Rules, 2007. Therefore, he has not incurred any disqualification under the said provision.

The respondent further submitted that his case is fully covered by the judgment of the Hon'ble Supreme Court in *DDA vs. Jitender Pal Bhardwaj*, (2010) 1 SCC 146, wherein it was held that in multi-storeyed buildings, allottees acquire an undivided share in land and exclusive rights over their respective flats. The Court held that if the undivided share in land is less than 65 square meters, the person is not disqualified from securing allotment, even if the flat itself is larger.


Additionally, the respondent referred to the judgments of the Hon'ble High Court of Delhi in *Kallu Ram Sharma vs. Financial Commissioner of Delhi*, W.P. (C) No. 794/2012 and *Bindya Aggarwal vs. RCS & Anr.*, W.P. (C) No. 2550/2011. In these cases, the Court, relying on the aforesaid Supreme Court judgment, granted the benefit of the proviso to Rule 25(1)(c)(i) of the Old DCS Rules, 1973 (which is *pari materia* to Rule 20(1)(c)(i) of the 2007 Rules), and held that the relevant criterion is the interest in land—not the size of the flat. In one such



case, where the petitioner's undivided share in the land was 35 square meters, it was held that no disqualification arose, notwithstanding the flat being larger than 66.72 square meters. Accordingly, Dr. Punit Gulati submitted that his case squarely falls within the exemption provided under the Rules and settled judicial precedents.

In view of the facts on record, the certificate dated issued by Sh. Nishant Sekhar, Chartered Accountant (CA/2006/3903) certifying that Dr. Punit Gulati's proportionate undivided share in land is 36.0 square meters, and the settled legal position laid down by the Hon'ble Supreme Court in *DDA vs. Jitender Pal Bhardwaj* (2010) 1 SCC 146, as well as by the Hon'ble High Court of Delhi in *Kallu Ram Sharma vs. Financial Commissioner of Delhi* and *Bindya Aggarwal vs. RCS & Anr.*, it is held that the respondent has not incurred any disqualification under Rule 20(1)(c)(i) of the Delhi Cooperative Societies Rules, 2007.

Accordingly, the show cause notice dated 23.08.2024 is hereby dropped, and it is ordered that the membership of Dr. Punit Gulati in Bhagwati Cooperative Group Housing Society Ltd. be restored with immediate effect.


Anil Kumar Singh
Registrar Cooperative Societies

Sent to:

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