

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/ARCS/Sec-III/2025/01

4641-48

Dated: 12/11/25

ORDER

IN THE MATTER OF:

Fakhruddin Memorial CGHS Ltd.....

Respondent

This order shall dispose of the proceedings initiated vide Show Cause Notice dated 04.09.2025 issued under sections 37 of DCS Act 2003 to Fakhruddin Memorial CGHS Ltd.

Brief Facts of the Case

Several complaints have been received from the members of Fakhruddin Memorial Co-operative Group Housing Society Ltd highlighting serious violations, arbitrary actions, abuse of power, and consistent non-compliance with the provisions of the Delhi Co-operative Societies Act, 2003 and the Delhi Co-operative Societies Rules, 2007 by the present Managing Committee (MC).

Complaints dated 02.06.2025 were received regarding the Special General Body Meeting (SGBM) scheduled on 08.06.2025, which coincided with the festival of Eid-ul-Zuha, resulting in the absence of nearly 40 Muslim families. Vide this office letter No. F.47/582/AR/Sec-III/GH/RCS/513-514 dated 05.06.2025, the Managing Committee was specifically directed not to hold the said SGBM. However, the Committee disobeyed the directions and proceeded with the meeting on 08.06.2025, in clear violation of the provisions of the Act and Rules. complaints have also been received alleging that the Managing Committee unilaterally increased the maintenance charges from ₹2,300/- to ₹3,200/- without approval of the General Body.

Despite directions issued by this office vide letters dated 09.04.2025, 17.04.2025, and 20.05.2025 to strictly comply with Rule 102 of the Rules, the Committee failed to adhere to the same, and repeated complaints continue to be received.

And whereas, a complaint dated 26.09.2024 was received alleging corruption and fraudulent membership practices involving the President, Secretary, and other office bearers of the Managing Committee. Clarifications and documentary proof of joint membership were repeatedly sought vide letters dated 19.11.2024, 03.12.2024, and 23.05.2025, but no satisfactory reply was furnished.

On examination of records, it has been found that the following office bearers are joint members only and not primary member. Despite this they are holding the Office of MC.



Name	Designation	Membership	Remarks
Sh. Amarjeet	President	33	Wife is primary member
Sh. Radhey Mohan Sinha	Member	413	Wife is primary member
Sh. Kamal Jeet Singh	Secretary	366	Wife is primary member
Sh. Rupam Gupta	Member	226	Wife is primary member
Smt. Sunanda Parashar	Member	266	Husband of primary member

It is further observed that the Managing Committee has, on multiple occasions, failed to comply with the directions issued by this office, including notices under Section 42 of the Act and earlier show-cause notices under Section 37(1). The Committee has also failed to cooperate with three different Inquiry Officers appointed under Section 62 of the Act.

Submission of the Society

The society submitted that the present show-cause notice issued under Section 37(1) of the DCS Act, 2003 is not maintainable in law and has been issued in disregard of the statutory provisions of the Act and the Rules framed thereunder. It was stated that an earlier show-cause notice dated 01.08.2025 issued under the same provision was already challenged before the Hon'ble High Court of Delhi in W.P.(C) No. 12288/2025, which was heard by the Division Bench on 14.08.2025, and the said notice was quashed by the Hon'ble Court. The society contended that the present show-cause notice has been issued within less than a month from the date of the High Court's order, without observing the statutory period and without any fresh cause, thereby rendering it untenable and indicative of mala fide intent.

The society further submitted that the essential ingredients of Section 37(1) of the DCS Act, 2003 — including continuous default for ninety days, negligence in performance of statutory duties, or defiance of directions under Section 42 — are absent in the instant case. No such default or negligence has been established or even alleged with specificity in the impugned notice.

With regard to the complaint concerning the Special General Body Meeting (SGBM) held on 08.06.2025, the society stated that the allegation that nearly 40 Muslim families could not attend on account of Eid-ul-Zuha is false and baseless. The society referred to the Government of NCT of Delhi holiday notification No. F.53/689/GAD/CN/2024-25/2018-2064 dated 13.11.2024, which declared Eid-ul-Zuha on 07.06.2025 and not on 08.06.2025. It was further submitted that the RCS office had been requested to clarify if it was following any other holiday calendar showing a three-day Eid from 07.06.2025 to 09.06.2025, but no such clarification was provided. The society emphasized that holding of an SGBM is within the powers of the General Body under Section 30 of the Act, and any aggrieved member could have raised a dispute under Section 70, but no such dispute has been filed.



Regarding the issue of revision of maintenance charges, the society submitted that the increase from Rs. 2,300/- to Rs. 3,200/- was duly approved by the Management Committee in accordance with the authority conferred upon it by the General Body in its meetings held on 25.05.2010 and 26.02.2023. The decision was duly circulated to all members prior to implementation. It was also stated that the majority of members have been paying the revised charges, except for a few chronic defaulters and habitual complainants.

On the issue of joint membership, the society clarified that in the case of Sh. Amarjeet, his name appears first in the registered sale deed, and he is therefore the primary member. In respect of Sh. Radhey Mohan Sinha, Sh. Kamaljeet Singh, Sh. Rupam Gupta, and Smt. Sunanda Parashar, it was submitted that the primary members have devolved their rights upon them in accordance with Rule 22(1) of the DCS Rules, 2007, and such transfers were approved by the then Managing Committee vide resolution dated 14.02.2020.

With respect to the allegation of non-cooperation in inquiries under Section 62 of the DCS Act, 2003, the society submitted that the said inquiries were themselves illegal and were conducted without compliance of Sections 61 and 62 of the Act. It was pointed out that the inquiry reports were challenged before the Financial Commissioner, who vide order dated 02.02.2024, quashed the same for non-compliance with statutory provisions and principles of natural justice.

The society, therefore, submitted that the present show-cause notice is arbitrary, without jurisdiction, contrary to the provisions of the DCS Act, 2003, and violative of the Hon'ble High Court's order dated 14.08.2025. It prayed that the impugned notice be withdrawn and the proceedings be dropped in the interest of justice. Here is the same paragraph refined in formal judicial language:

On the date of hearing, i.e., 07.11.2025, Sh. R.K. Gupta, Learned Counsel appearing on behalf of the Society, appeared before the undersigned and sought some time to file additional written submissions. Considering the request and in the interest of justice, the same was acceded to, and the society was granted two days time to file its written submissions on or before 11.11.2025.

Sh. B.P. Singh, Manager of the Society, was also present during the proceedings dated 11.11.2025, submitted written arguments on behalf of the Society, wherein it was stated that the show-cause notice issued under Section 37(1) of the DCS Act, 2003 dated 04.09.2025 was issued without proper justification and was duly replied to by the Society on 13.09.2025. It was further submitted that the said reply sufficiently establishes that no ground exists for initiation of proceedings under Section 37(1) of the Act.

The MC further contended that the collection of maintenance charges is a legitimate and essential function of the Managing Committee for the upkeep and management of the society, and any grievance regarding the rate or amount of such charges can only be raised before the competent authority under Section 70 of the DCS Act, 2003. No such challenge has ever been filed by any member. Hence, the issuance of the show-cause notice is unwarranted.



It was also submitted that the term of the present Managing Committee is expiring in December 2025, and the Returning Officer, Sh. Shailesh Gupta, Dy. Controller of Accounts (formerly Accounts Officer, O/o RCS), has already been appointed and duly recognized by the RCS office vide letter dated 28.10.2025. The election process has already commenced, and the agenda notice for elections scheduled on 14.12.2025 has been issued by the Returning Officer.

The Society also drew attention to the earlier order dated 01.08.2025, whereby an Administrator was appointed under Section 37(1), which was later quashed by the Hon'ble Delhi High Court in W.P. No. 12288/2025 vide order dated 14.08.2025. It was argued that despite the judicial finding, repeated attempts to interfere with the functioning of the elected Managing Committee appear unjustified and contrary to the principles of natural justice.

Accordingly, the Society prayed that the proceedings initiated under Section 37(1) of the DCS Act, 2003 be dropped and no further coercive action be taken, especially in view of the forthcoming elections already notified for 14th December 2025.

Observation

It is pertinent to mention the different Act and Rules provisions of maintenances which is given in DCS Act 2003 and Rules 2007 which are as below-

Maintenance of essential services in co-operative housing societies. (DCS Act 2003)

39. (1) Every co-operative housing society shall frame regulations from time to time with the approval of the general body meeting of the co-operative housing society for maintenance of essential services including mandatory green area in the co-operative housing society which shall contain details of services to be provided and service charges to be recovered for such services from the members and residents of its housing complex.

Management of co-operative housing complex by co-operative societies. (DCS Act 2003)

93. (1) The management of co-operative housing complex shall be entrusted to the committee which will ensure cleanliness, security, upkeep of common areas, services, landscape and exterior of the building, prepare a budget for annual maintenance charges which shall be got approved annually from the general body and it shall be the responsibility of the member or occupant, as the case may be, to make payment of maintenance charges to the committee.

102. Maintenance of essential services in a cooperative housing society-(DCS Rules 2007)

(1) The Committee shall be responsible for maintaining the following essential services in the housing complex on regular basis, namely:- (a) Electricity supply; (b) Water supply and sewage; (c) Garbage disposal;



(d) Running of lifts, borewell, Genset, Water Harvesting system and maintenance of green areas; (e) Security services; (f) Availability of plumber, electrician and Mali etc., for day to day services for all occupants; (g) Availability of fire safety equipments/systems in running condition; (h) Round the clock hours emergency response and staffing; and (i) Other services as may be specified by the General body;

(2) The general body while framing regulations for maintenance of essential services including mandatory green area in the co-operative housing society shall have to take into account the common areas, common facilities and the services which are rendered to the members and the residents by the co-operative housing society. The regulations shall have to spell out the basis of fixing up of the charges for the maintenance of essential services specially in such complexes, where area of dwelling units and number of storey of flats differ in sizes. Further, where lifts are installed in building charges for its use and maintenance shall have to be paid by all members and residents in spite of the fact whether the particular member or resident is staying at any floor of the building. The general body may fix higher charges of essential services in respect of dwelling units which are on rent and in possession of tenants.

(3) The maintenance charges of essential services under sub-rule (1) shall be made as a part of budget provision with the approval of the general body with a view to create a corpus fund as provided under section 81 of the Act. The committee shall be competent to review and revise the charges with the approval of the general body only where reasons for change shall have to be circulated to all the members and residents in advance.

On examination of the records and submissions, it is observed that the society has failed to comply with the provisions of Rules 89, 93, and 102 of the Delhi Co-operative Societies Rules, 2007, which mandate that every co-operative housing society shall frame regulations for maintenance of essential services and obtain approval of the General Body for fixing or revising the related service charges. Despite repeated directions issued by this office, the society has avoided compliance with these statutory provisions and has merely relied upon the General Body Meeting resolution dated 25.05.2010, claiming that it empowered the Managing Committee to revise maintenance charges. The subsequent increase of maintenance charges from ₹2,300/- to ₹3,200/- was carried out without the specific approval of the General Body, as required under Rule 102(2) and (3) of the Rules.

Such unilateral action of the Managing Committee constitutes a clear violation of 89, 93 of DCS Act 2003 and 102 of the DCS Rules, 2007, and is therefore found to attract the provisions of Section 37(1) of the DCS Act, 2003. The conduct of the Managing Committee in this regard is arbitrary and against the interest of the members and the co-operative principles of democratic functioning.

Additionally, scrutiny of records and communications from this office and the DDA reveals that five Managing Committee members—namely Sh. Amarjeet, Sh. Radhey Mohan Sinha, Sh. Kamal Jeet Singh, Sh. Rupam Gupta, and Smt. Sunanda Parashar—are not primary members. Despite repeated communications dated 19.11.2024, 03.12.2024, and 23.05.2025 seeking clarification, the society failed to furnish any satisfactory reply.



Relevant provisions under DCS Act 2003 is reproduced below-

Votes of members. (DCS Act 2003)

25. Every member of a co-operative society shall have one vote in the affairs of the co-operative society :

Provided that -

- (a) in the case of an equality of votes, the Chairman shall have a second or casting vote;
- (b) a nominal or associate or joint member shall not have the right of vote;
- (c) where the Government is a member of the co-operative society, each person nominated by the Government on the committee shall have one vote; and
- (d) if a member is in default in payment of the sum demanded by the co-operative society or has transferred his interest in a co-operative society to any other member or to any other person without the approval of the competent authority, he shall have no voting right in the general body meeting of the co-operative society.
- (e) "if a co-operative society becomes defunct and has ceased to function in accordance with the bye-laws and co-operative principles, its representative shall have no voting right in the affairs of a federal co-operative society or financial bank or financial society."

22. Procedure for admission of joint member, minor and person of unsound mind and inheriting the share or interest of deceased member. (DCS Rules 2007)

(1). A co-operative society may admit joint member provided the proposed joint member make a declaration in writing that the person whose name stands first in the share certificate shall have the right to vote and all other rights shall be enjoyed jointly and severally and liabilities shall be borne jointly and severally by them as provided under the Act, the rules and the bye-laws: Provided that in case of inability of the person whose name stands first in share certificate, he/she can authorize the other to vote and attend the meeting on his behalf. Provided further that in case of co-operative group housing/house building society, the joint membership shall be restricted to only person in first degree blood relationship.

The Delhi High Court upheld the order dated 25.02.2019 passed by the Registrar of Cooperative Societies (RCS) declaring the election of the President and Secretary of Sheetal Vihar CGHS Ltd. Vs RCS in W.P (C) No. 3495/2019 as illegal, since both office bearers were second-named joint members on the share certificate, in violation of Rule 22(1) read with Rule 53 of the Delhi Cooperative Societies Rules, 2007.

The operative part of the above order is as below

Thus, as per the proviso to Rule 22(1), the right to vote conferred upon joint members is only in case of inability of the person whose name stands first in the share certificate and not otherwise. The inability spoken of in the first proviso to Rule 22(1) of the Rules is a legal inability. The same relates to inability which the primary members may suffer from



on account of minority, insanity or other legal disability. If the first proviso to Rule 22(1) were to be interpreted, it means that in respect of some categories of Members, the joint Member could be authorised to vote and attend meetings on their behalf, but the same would clearly be contrary to proviso (b) of Section 25 taken note of hereinabove. There is no gain saying that rules are subordinate to the provisions contained in the Act and cannot survive if they are in contravention of the statutory provisions. Thus, the only way in which the first proviso to Rule 22(1) can be saved from being declared ultra vires is to read it meaningfully, i.e., to limit the scope of the phraseword 'inability of the person' to mean legal inability or disability. Thus, it clearly emerges that the petitioner nos.2 and 3 were not entitled to vote much less contest in the election for the post of President and Secretary in the petitioner/society.

Reliance placed by Mr. Munjal on our decision in Krishna Devi (supra) is misplaced. The facts of that case are materially different. Moreover, proviso (b) to Section 25 of the Act was neither referred to nor considered in the said decision since its application did not arise for consideration.

The submission of Mr. Munjal that the impugned order is illegal since the same has been issued without authority by the Registrar of Cooperative Societies, does not motivate us to invoke our discretionary jurisdiction under Article 226 of the Constitution of India, since it is clear to us that no injustice has been done to the petitioners with the passing of the impugned order. The petitioners cannot run away from the fact that the petitioner nos.2 and 3 were not entitled to contest the election and then be elected as President and Secretary of the petitioner no.1/society. This Court is not obliged to exercise its discretionary jurisdiction under Article 226 of the Constitution of India in every case, even if there is some irregularity pointed out by the petitioner. We are, therefore, not inclined to interfere with the impugned order.

The writ petition is dismissed in the above terms along with the pending application.

The Court held that under Section 25(b) of the Delhi Cooperative Societies Act, 2003, only the first-named member in a joint membership has the right to vote. The first proviso to Rule 22(1) applies only where the first-named member suffers from a **legal inability** such as **minority, insanity, or other incapacity**. Any broader interpretation would render the rule contrary to the Act.

It has been verified from departmental, DDA records and the evidence submitted by the complainant that the primary membership in these cases vests with their respective spouses. The inclusion of such non-primary members in the Managing Committee constitutes a gross violation of Section 25(b) of the DCS Act, 2003, read with Rule 22(1) of the DCS Rules, 2007.

Upon careful examination of the records, complaints, and submissions of the society, it is evident that the Managing Committee of Fakhruddin Memorial Cooperative Group Housing Society Ltd. has failed to discharge its statutory duties in accordance with the provisions of the Delhi Cooperative Societies Act, 2003 and the Delhi Cooperative Societies Rules, 2007. The Committee has violated the directions issued by this office under Section 42 of the Act, conducted the Special General Body Meeting in defiance of official orders, and unilaterally revised the maintenance charges without approval of the General Body in contravention of Sections 89 and 93 of the DCS Act, 2003 and Rule 102(2) & (3) of the DCS Rules, 2007. Further, the inclusion of non-primary members in the Managing Committee is in violation of




Section 25(b) of the Act read with Rule 22(1) of the Rules. The above acts reflect continued negligence, non-compliance, and disregard for cooperative principles and lawful directions.

In this context, reliance is placed on the settled interpretation of Section 25(b) of the DCS Act, 2003 read with Rule 22(1) of the DCS Rules, 2007, wherein the Hon'ble Delhi High Court has held that the right to vote or contest can be exercised by a joint member only in cases of *legal inability* of the primary member and not otherwise. Since the inclusion of such joint members in the Managing Committee is contrary to law, the election and functioning of the present Committee stands vitiated.

In view of the above facts and in the light of the provisions contained under Section 37(1) of the Delhi Cooperative Societies Act, 2003, the Managing Committee of Fakhruddin Cooperative Group Housing Society Ltd. is hereby superseded with immediate effect.

Accordingly, Sh. Ram Kumar Savant, Grade-I Officer, Government of NCT of Delhi, is hereby appointed as the Administrator under Section 37 of the Delhi Cooperative Societies Act, 2003, to manage the day-to-day affairs of the society, and ensure due compliance with the statutory provisions of the Act and the Rules made thereunder. The Administrator shall be paid a remuneration of ₹10,000/- (Ten Thousand only) per month, which shall be borne from the society's funds. It is also directed that the Administrator shall extend full cooperation to the Returning Officer, Sh. Shailah Gupta, for conducting free and fair elections scheduled to be held on 14.12.2025 in accordance with the provisions of the Act and the Rules.




Krishna Kumar Singh IAS
REGISTRAR COOPERATIVE SOCIETIES

1. President/ Secretary Fakharuddin CGHS Plot No. B-02, Sector-14 Extn. Rohini, New Delhi-110085.
2. Sh. Ram Kumar Savant (Administrator) C-II/106, Lodhi Colony, New Delhi-110003.
3. ARCS 03 O/o RCS.
4. ARCS IT Cell O/o RCS.
5. Gaurd File.