

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

No: F.47/1158/GH/Coop/Sec-05/Pt. File/ 633 3 — 38
CD No. 107580337

Dated: - 28/4/26

ORDER

This order shall dispose of the proceedings initiated under Section 37 of the Delhi Cooperative Societies Act, 2003 vide Show Cause Notice dated 23.08.2024 issued to Delhi Union Cooperative CHBS Ltd.

Whereas, Delhi Union Cooperative CHBS Ltd., Kapil Vihar, Pitampura, New Delhi-110034, is a co-operative group housing society registered with the Department vide Registration No. 1796/GH under the provisions of Delhi Cooperative Societies Act and Rules framed thereunder.

Whereas as, a complaint dated 11.07.2024 was received from Sh. Sushil Kumar Aggarwal against the managing committee of the society for openly and blatantly violating the order dated 21.2.2024 of the Registrar Cooperative Societies passed u/s 86 and orders/direction dated 20.05.2025 of the assistant Registrar, Section-2 and award dated 29.02.2024 of the Ld. Arbitrator passed under section 71 of the DCS Act, 2003.

Brief Facts of the Case

In the matter titled *Delhi Union Cooperative House Building Society Ltd. versus Sushil Kumar Agarwal & Ors.*, filed under Section 86 of the Delhi Cooperative Societies Act, 2003 before the Court of the Registrar Cooperative Societies, the proposal for expulsion of Sh. Sushil Kumar Agarwal, Smt. Bimla Devi, and Sh. Rajeev Agarwal was rejected vide order dated 21.02.2024.

Despite the aforesaid order, the then Managing Committee (MC) of the Society passed a resolution dated 26.02.2024 purporting "deemed expulsion" of the said members, which is contrary to the statutory provisions, particularly when the order had already been passed within the prescribed period of 180 days under Section 86 of the Act read with Rule 99 of the Delhi Cooperative Societies Rules, 2007.

The Assistant Registrar, vide letter dated 17.05.2024, directed the Managing Committee to withdraw the said resolution regarding deemed expulsion of Sh. Sushil Kumar



Agarwal, Smt. Bimla Devi, and Sh. Rajeev Agarwal (Joint Membership No. 127). However, the Managing Committee has failed to comply with the said directions.

Further, the Learned Arbitrator, vide award dated 29.02.2024, set aside the demand raised by the Society against Sh. Sushil Kumar Agarwal. Despite this, the Society has neither removed his name from the list of defaulters nor permitted him to participate in the meetings of the Managing Committee.

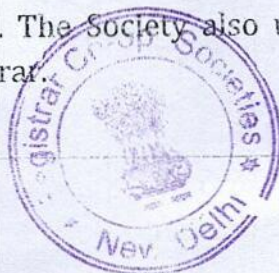
Reply of the Society

1. That the Society submitted the expulsion dossier on 29.08.2023 before the Office of the Registrar Cooperative Societies. The expelled member, Sh. S.K. Aggarwal along with another joint member, filed their reply, which was duly rebutted by the Society through a rejoinder. The matter was finally argued before the Worthy Registrar Cooperative Societies on 13.02.2024, and the case was reserved for orders, though no specific date for pronouncement was fixed.

It is further submitted that in terms of Section 86 of the Delhi Cooperative Societies Act, 2003 read with Rule 99 of the DCS Rules, 2007, the statutory period of 180 days expired on 24.02.2024. Accordingly, in compliance with Rule 99(3), the Managing Committee convened a meeting on 26.02.2024 at 8:15 AM, wherein a resolution for deemed expulsion was passed unanimously. The said resolution was communicated to the Office of the Registrar via email and speed post, and also to the concerned members.

It is contended that till the time of passing of the resolution, no order from the Registrar's office had been received by the Society. The order dated 21.02.2024 was received only later in the day on 26.02.2024 at about 2:47 PM, by which time the deemed expulsion had already been effected.

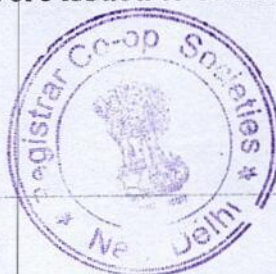
2. It is stated that based on such allegations, proceedings under Section 37 of the Act were initiated and a letter dated 17.05.2024 was issued by the Registrar's office, to which the Society submitted a detailed reply on 29.05.2024, explaining the entire chronology and relying upon the judgment of the Hon'ble High Court of Delhi in W.P.(C) No. 1746/2014 concerning deemed expulsion.
3. That in its reply, the Society requested the Registrar to revisit the matter in light of the legislative intent of Section 86 and Rule 99, and submitted that the appropriate remedy for the aggrieved member lies before the Delhi Cooperative Tribunal under Section 86(4) read with Rule 99(4). The Society also undertook to abide by all lawful directions issued by the Registrar.



4. That thereafter, no further communication was received from the Registrar's office, and the Society presumed that its explanation had been accepted. It is thus contended that the present Show Cause Notice is unsustainable and liable to be withdrawn.
5. That the Society had raised certain demands against members including Sh. S.K. Aggarwal, which were challenged in arbitration proceedings. The Learned Arbitrator passed an award dated 29.02.2024 in favour of the members. The Society has preferred an appeal before the Delhi Cooperative Tribunal (Appeal No. 52/2024), which is pending adjudication.

It is further submitted that the arbitral award has not been put into execution under Section 105 of the Act read with Rule 24 of the Rules. In view of the pendency of the appeal and absence of execution proceedings, the Society contends that action under Section 37 on this ground is not justified.

6. That with regard to the issue of levy of interest/penalty on delayed payment of maintenance charges, the Society submits that a complaint dated 17.11.2022 was filed by Sh. Anil Aggarwal. In response to the Assistant Registrar's letter dated 20.03.2023, the Society submitted a detailed reply on 05.04.2023 (Diary No. 14138).
7. That the Show Cause Notice dated 23.08.2024 was issued to the erstwhile Managing Committee. Subsequently, elections were held on 24.11.2024, and a new Managing Committee has taken charge. The election has not been challenged and has attained finality.
8. That in view of the new Managing Committee being in place, the present proceedings have become infructuous. It is further submitted that the issues raised in the Show Cause Notice are presently sub judice before the Delhi Cooperative Tribunal.
9. That the Society reiterates that replies to the letters dated 20.03.2023 and 22.12.2023 were duly submitted but were allegedly not placed on record. The Society also approached the Hon'ble Financial Commissioner in Revision Petition No. 269/2024, wherein directions were issued to consider the said replies.



10. That subsequently, in the General Body Meeting held on 24.08.2025, the penalty clause relating to late payment surcharge has been withdrawn. Therefore, it is submitted that no cause of action survives as on date.

Findings and Decision

I have carefully considered the material available on record, the submissions made in the complaint, the reply filed by the Society, and the relevant provisions of the Delhi Cooperative Societies Act, 2003 and the Rules framed thereunder.

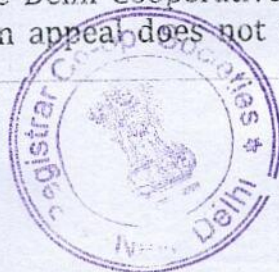
The primary contention of the Society is that the resolution of deemed expulsion was passed in compliance with Rule 99(3) upon expiry of 180 days. However, the record clearly establishes that the Registrar, Cooperative Societies had already passed a reasoned order dated 21.02.2024 rejecting the proposal for expulsion within the prescribed statutory period.

The plea of the Society that the said order was received subsequently on 26.02.2024 is devoid of merit. Once an order had been passed by the competent authority within the stipulated period, the provision relating to "deemed expulsion" ceased to operate. The action of the Managing Committee in proceeding to pass a resolution contrary to an already existing order reflects a deliberate disregard of statutory provisions and amounts to willful disobedience.

It is further observed that the Assistant Registrar had categorically directed the Society to withdraw the resolution of deemed expulsion. The Society has admittedly failed to comply with the said directions. The contention that the Society presumed acceptance of its reply in the absence of further communication is untenable and contrary to settled principles of administrative law. Directions issued by a competent authority remain binding unless expressly withdrawn or set aside by a higher forum. Non-compliance thereof clearly establishes persistent defiance on the part of the Managing Committee.

It is also pertinent to note that although a Show Cause Notice was issued to the erstwhile Managing Committee, the name of the concerned member has still not been restored in the records of the Society (as per list of members of the society submitted by the petitioner duly signed by the Assistant Registrar, Audit Branch, RCS, copy received through RTI). This clearly demonstrates that the present Managing Committee is also continuing the violation of the order dated 21.02.2024 passed by the Registrar, Cooperative Societies, as well as the directions dated 20.05.2025 issued by the Assistant Registrar.

Further, the Society has failed to comply with the arbitral award whereby the demand raised against Sh. Sushil Kumar Aggarwal was set aside. It is an admitted position that no stay has been granted by the Hon'ble Delhi Cooperative Tribunal. It is a settled proposition of law that mere filing of an appeal does not operate as a stay of the



impugned order. Consequently, the Society was under a legal obligation to implement the award, including removal of the member from the defaulter list and permitting his participation in the affairs of the Society. The failure to do so reflects continued and conscious non-compliance of lawful orders.

It has also been observed that the Society has been charging interest at an exorbitant rate, reportedly as high as 365% per annum on delayed payment of maintenance charges, which is in clear violation of Rule 32 of the Delhi Cooperative Societies Rules, 2007. Despite specific directions issued by the Assistant Registrar vide letters dated 20.03.2023 and 22.12.2023, the Society has failed to bring its practices in conformity with the statutory provisions. The justification offered by the Society on the basis of General Body resolutions is unsustainable, as such resolutions cannot override the Act and Rules, which have overriding statutory force.

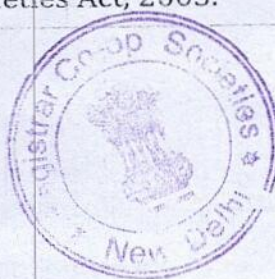
The Society has further contended that the election of a new Managing Committee on 24.11.2024 renders the present proceedings infructuous. This contention is devoid of merit. Proceedings under Section 37 are initiated against the Managing Committee as an institution and not merely against individual office bearers. A change in composition does not absolve the Committee of its past acts of commission and omission, particularly where continued violations and non-compliance of lawful directions are evident.

Although the Society has preferred an appeal before the Hon'ble Delhi Cooperative Tribunal, no interim relief has been granted in its favour. Accordingly, the Society remains legally bound to comply with the arbitral award as well as the directions issued by the competent authority, which it has failed to do.

Lastly, the subsequent withdrawal of the penalty clause in the General Body Meeting dated 24.08.2025 does not cure the earlier illegality or the continued non-compliance. The violations had already occurred and persisted for a considerable period despite repeated directions from the competent authority.

From the foregoing, it is clearly established that the Managing Committee has willfully acted in contravention of the order dated 21.02.2024 passed under Section 86 of the Delhi Cooperative Societies Act, 2003, and has failed to comply with binding directions issued by the office of the Registrar, Cooperative Societies. It has further not implemented the arbitral award despite the absence of any stay by the competent forum, in disregard of settled legal principles. Additionally, the Managing Committee has violated statutory provisions, particularly Rule 32 of the Delhi Cooperative Societies Rules, 2007, and has continued such violations despite repeated directions from the competent authority.

The cumulative conduct of the Managing Committee thus unequivocally demonstrates persistent default, gross negligence in the discharge of its duties, and a conscious disregard of statutory obligations, thereby squarely attracting the provisions of Section 37 of the Delhi Cooperative Societies Act, 2003.

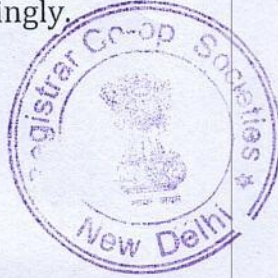


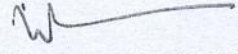
Accordingly, I Krishna Kumar in exercise of the powers conferred under Section 37 of the Delhi Cooperative Societies Act, 2003, the Managing Committee of *Delhi Union Cooperative House Building Society Ltd.* is hereby superseded.

Further, an Administrator Sh. Ajay Rathee is hereby appointed under Section 37 of the Act to manage the affairs of the Society for such period as prescribed under the Act and Rules, or till a newly elected Managing Committee assumes charge, whichever is earlier. The Administrator shall take over charge forthwith, ensure smooth functioning of the Society, safeguard records and assets, and initiate steps for conduct of elections in accordance with the provisions of the Act, Rules, and Bye-laws.

The Managing Committee and all office bearers are directed to hand over complete charge of records, documents, accounts, assets, and all relevant materials of the Society to the Administrator from the receipt of this order.

This order is issued accordingly.




Krishna Kumar Singh (IAS)
Registrar Cooperative Societies

Sent To:-

1. Sh. Ajay Rathee, Administrator, Adhoc Danics, Retire, R/o 41/35 Main Rohtak Road, 4th Floor, Above Nexa Showroom, West Punjabi Bagh, Delhi - 110026.
2. Sh. Sushil Kumar Agarwal, S/o Late Sh. Babu Lal Agarwal, R/o 26, Kapil Vihar, Pitam Pura, Delhi - 34
3. President/Secretary, Delhi Union CHBS Ltd., 1st Floor, Satsang Bhawan Kapileshwar Mandir, Kapil Vihar, Pitampura, Delhi-110034.
4. DRCS, Section -2, O/o RCS
5. DRCS (IT), O/o RCS
6. Guard File