

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/GH/AR/ Sec-1/F.C/RCS/2023 | 6531-35

Dated: 15/5/26

ORDER

This order shall dispose of the proceedings initiated in compliance with the order dated 06.10.2023 passed by the Ld. Financial Commissioner. The operative portion of the said order is reproduced as under:

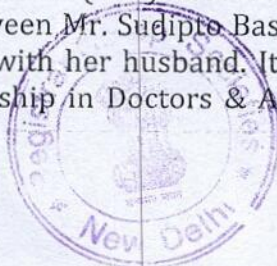
"In the ligh of the aforesaid reasons and judgments, this Court is of the considered view that Ld. Registrar Cooperative Societies should revisit the issue and give his clear findings with regard to applicability of the citations relied upon by the petitioner in support of her case and also on the grounds which were raised by the petitioner before him. Accordingly, the impugned order dated 17.03.2017 passed by the Registrar Cooperative Societies is set aside and the matter is remanded to the Ld. RCS to pass a speaking and reasoned order after giving opportunity of hearing to the petitioner herein on all the points raised by the petitioner and after taking into consideration the law laid down by the Hon'ble Supreme Court of India and Hon'ble High Court of Delhi in this regard. The RCS should endeavour to pass a speaking order within next six months. During the pendency of case before the Ld. RCS, no coercive action be taken against the petitioner".

Background of the Case:

The Registrar Cooperative Societies initiated proceedings under Rule 25 (1) (c) (i) of DCS Rules 1973 on the basis of complaints dated 30.07.2012 and 14.08.2012 filed by Deepak Kumar resident of flat no. 706, Baroda House NRGE CGHS Ltd. against the petitioner regarding her disqualification from the membership of respondent society.

It was alleged in the complaints that the petitioner had been enrolled as a member of the respondent society, Baroda House NRGE CGHS Ltd., in the year 2003, bearing Membership No. 326, and was allotted Flat No. 105, despite the fact that a regular draw of lots was yet to be conducted. It was further alleged that the petitioner had submitted a false affidavit and declaration stating that she did not own any residential house or plot of land, whether in her own name or in the name of her spouse or dependent children, in any approved or unapproved colony within the National Capital Territory of Delhi, on either leasehold or freehold basis. Contrary to this declaration, it was alleged that the petitioner, along with her husband, was already a member bearing Membership No. 271 and had been allotted Flat No. 135 in Doctors & Administrators of AIIMS CGHS Ltd.

The then Registrar Cooperative Societies (RCS) observed that an Agreement to Sell dated 16.05.2002 had been executed between Mr. Sudipto Basu, acting as GPA holder of Dr. A.K. Banerjee, and the petitioner along with her husband. It was further noted that, pursuant thereto, an application for membership in Doctors & Administrators of AIIMS CGHS Ltd.



had been submitted in their joint names. Thereafter, despite having acquired the said property, the petitioner applied for membership in the respondent society in the year 2003 and was accordingly granted Membership No. 326 and allotted Flat No. 105.

On the basis of the aforesaid facts, the RCS, vide impugned order dated 17.03.2016, held that the petitioner was not eligible to be a member of the respondent society, as she was already in possession of a residential property, thereby violating Rule 25(1)(c)(i) of the Delhi Cooperative Societies Rules, 1973.

The submissions of the Petitioner:-

1. That the petitioner is member of Baroda House NRGH CGHS Ltd. having membership no. 326 and had been allotted a flat bearing no. 105 in self draw held by the society which has now been regularized by the Govt. of NCT of Delhi.
2. That it is alleged that the petitioner filed a wrong affidavit and declaration to the effect that she did not own a residential house or plot of land in any approved or unapproved colony or locality in the National Capital Territory of Delhi in her name or in the name of her spouse or dependent children on lease hold basis or free hold basis when she was already holding membership bearing no. 271 and flat no. 135 in Doctors and Administrators of AIIMS CGHS Ltd. along with her husband Vinay Jain.
3. That Registrar Cooperative Society without verifying the facts and without examining the complaints as per provisions of law, issued a show cause notice under Rule 25 (2) of DCS Rules, 1973.
4. That on receipt of show cause notice dated 25.09.2013, the petitioner filed a detailed reply with some documentary evidence to show that the petitioner was not disqualified to become member of the society and to remain as member of the society in view of the law laid down by Hon'ble High Court of Delhi and upheld by the Hon'ble Supreme Court.
5. That Deepak Kumar, the alleged complainant appeared before the RCS on 03.10.2013 wherein he had made a statement that the signatures appearing on the complaint are not of him and therefore, denied that he had filed any complaint against the petitioner.
6. That the respondent society filed rejoinder and tried to interpret the law in its own way to cause loss to the petitioner having vested interest by the office bearers of the society and, this fact is proved beyond doubt as when the complaint has not been filed either by Deepak Kumar or by the society. There was no question of filing rejoinder as the society has not initiated any such action as contemplated under Rule 25 of DCS Rules, 1973.
7. That during the course of hearing, the RCS directed the petitioner to disclose the area of the flat. Accordingly, Doctors and Administrators of AIIMS CGHS Ltd. vide reply dated 17.07.2014 informed that the area of flat no. 135 is 132.6 square meters and the covered area of the flat is 92.82 square meters thereby land beneath the flat comes to 19 meters which is less than the prescribed limit of 66.72 square meters and also informed that neither Vinay Jain nor Madhvi Jain is the member of the society.
8. That the petitioner received an order dated 17.03.2016 thereby holding that Madhvi Jain cannot be a member of Baroda House NRGH CGHS Ltd. as they were having the

- property in their name which is in the violation of Rule 25 (1) (c) (i) of DCS Rules, 1973.
9. That if there is no dispute with regard to acquiring property through independent source of income, how the question of owing of property in the name of spouse will come in way of becoming member of the society. It has also been wrongly recorded that Vinay Jain was member of Doctors and Administrators of AIIMS CGHS Ltd. and this fact is proved from the letter dated 17.07.2014 written by the Secretary of the said society. Even otherwise also once it is admitted that a person can become member of the society if the amount has been paid from his/her own source then in such circumstances the question of having property or becoming member by her spouse has no relevance.
 10. That the petitioner relied upon judgment passed in Supreme Court case titled as Delhi Development Authority Vs. Jitender Pal Bhardwaj reported as 163 (2009) DLT 618 (SC) and Hon'ble High Court of Delhi case titled as Bindiya Aggarwal Vs. Registrar Cooperative Society and another reported as 181 (2011) DLT 513 (DB), The petitioner also relied upon Hon'ble High Court judgments in case titled Alimuddin Vs. Registrar Cooperative Society and others.

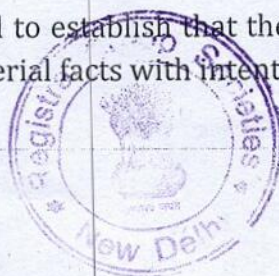
Upon examination of the material available on record, it is noted that the proceedings were initiated on the basis of complaints allegedly filed by one Deepak Kumar. However, the record reflects that the said complainant had appeared during earlier proceedings and denied having filed the complaint, disputing the signatures attributed to him as per F.C. Order 06.10.2023. This fact casts serious doubt on the authenticity of the complaint and the very foundation of the proceedings.

Further, it is an admitted position that the proportionate land beneath the said flat is approximately 19 square meters, which is below the threshold prescribed under the Rules. Accordingly, the case is covered under the proviso to Rule 25(1)(c)(i) of the DCS Rules, 1973, and does not attract disqualification.

Additionally, the petitioner has placed on record documentary evidence which was not earlier produced, including Income Tax Returns, loan documents pertaining to financial assistance availed from ICICI Bank, and a declaration from Mr. Vinay Jain, husband of the petitioner, stating that he had advanced a sum of ₹7,34,000/- as loan, out of which part repayment has already been made and the balance amount still remains outstanding. These documents prima facie establish the petitioner's independent financial capacity and disclose the source of funds utilized for acquisition of the flat. The absence of any finding on this material aspect in the impugned order reflects non-consideration of relevant evidence.

Further, as per Ld. F.C order dated 06.10.2023, the communication issued by the concerned society also indicates that neither the petitioner nor her husband was a member thereof, which contradicts the basis of the allegation.

No material has been brought on record to establish that the petitioner deliberately made any false declaration or suppressed material facts with intent to secure wrongful gain.



1. Smt. Madhvi Jain, W/o Vinay Jain, (M.No. 326) R/o Flat No. 105, Baroda House NRGF CGHS Ltd. Plot No. 40-A, Sector-10, Dwarka, New Delhi-110075.
2. President/Secretary, Baroda House NRGF CGHS Ltd. Plot No. 40-A, Sector-10, Dwarka, New Delhi-110075.
3. DRCS (TT), O/o RCS
4. DRCS, Section -1, O/o RCS
5. Guard File

Sent To

Krishna Kumar Singh
Registrar Cooperative Societies



Ordered accordingly.

Accordingly, the impugned order dated 17.03.2016 is hereby set aside. The proceedings initiated against the petitioner are hereby dropped. The petitioner shall continue as a valid member of the respondent society, and her membership bearing No. 326 along with allotment of Flat No. 105 stands confirmed with all consequential benefits as member since the date of allotment.

In view of the foregoing discussion, it is evident that the petitioner has not incurred disqualification under Rule 25(1)(c)(i) of the Delhi Cooperative Societies Rules, 1973. The findings recorded in the earlier order dated 17.03.2016 are based on incomplete appreciation of facts and non-consideration of relevant legal provisions, and therefore cannot be sustained.

Conclusion:

Lastly, it is pertinent to note that the respondent society has failed to appear and contest the matter despite repeated opportunities and has remained absent during hearings from 28.12.2023 to 28.04.2026. Such conduct further weakens the case against the petitioner.

The Hon'ble High Court of Delhi, in *Kallu Ram Sharma vs. Financial Commissioner, Delhi and Bindya Aggarwal vs. Registrar Cooperative Societies & Anr.*, has held that in the case of flats in multi-storied buildings, it is the proportionate share in land, and not the built-up area of the flat, which is relevant for determining disqualification.

It is further noted that, as per the submissions made by the respondent, the property, Flat No. 105 in Baroda House NRGF CGHS Ltd. is situated on the first floor of a ten-storied building having a total plinth area of 105 square meters. The proportionate undivided share of land attributable to the said flat comes to approximately 11 square meters, which is far below the prescribed limit of 66.72 square meters.