

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-1504/Coop/W/Pt File/6755-61

Dated: 24/6/24

Order

This order shall dispose of the proceedings initiated vide show cause notice dated 11.07.2024 issued u/s 87 & 41 of the DCS Act, 2003 for cessation of the membership of Mr. Santosh Agarwal in Backward Class & Lower Income Group Co-operative Group Housing Society Ltd., BG-01, Shiva Enclave, A-4 Paschim Vihar, New Delhi 110063

Brief facts of the case

A petition has been received from Balram Dhir Flat No. XF-5 B.C & LIG Co-operative Group Housing Society Ltd., Under Section 87 & 41 DCS Act, 2003 against Mr. Santosh Aggarwal, alleging that he is holding two memberships in the said society, bearing Membership Nos. 383 and 336, in his own name.

The petitioner Sh. Balram Dhir, member of the BC & LIG CGHS Ltd. stated that the respondent having dual membership in the society, either in his name or in the name of his spouse /children, as such they incur legal disqualification and have no right to vote in the affairs of the society including election to the managing committee of the society.

Reply of the respondent

1. The respondent, Mr. Santosh Aggarwal, submitted that the complaint filed by Mr. Balram Dhir is malafide, vexatious, and devoid of merit. He informed that the memberships in the Society were granted and transferred by the Managing Committee in accordance with the provisions of the DCS Act, 2003 and the DCS Rules, 2007, particularly Section 91 of the Act, and that the membership records had been regularly submitted to the Registrar without any objection for several years.
2. The respondent further relied upon the judgment of the Hon'ble Delhi High Court in *Balraj Dhingra vs. Registrar of Cooperative Societies & Others* (W.P. (C) No. 1674/2015), wherein it was observed that any person aggrieved by a decision of the Managing Committee regarding transfer of membership under Section 91 of the DCS Act is required to seek remedy by filing a dispute under Section 70 of the Act. On this basis, he argued that the complaint of Mr. Balram Dhir was not maintainable and that the present proceedings initiated on the basis of such complaint deserved to be dropped.
3. The respondent also submitted that the provisions of Section 87 of the DCS Act, which deal with additional grounds for cessation of membership in a cooperative housing society, were not applicable in his case. He stated that he was not an original member of the Society but had acquired membership subsequently through purchase of a flat



and transfer of membership under Section 91 of the Act. According to him, such acquisition is protected by the proviso to Section 87, which exempts persons who acquire property through a power of attorney, agreement to sell, or conveyance deed and thereafter seek membership of the concerned cooperative housing society.

4. It was further argued that since no disqualification under Section 87 was attracted in his case, the provisions of Section 41(d), which provide for cessation of membership on account of such disqualification, could not be invoked against him. He therefore maintained that the Show Cause Notice lacked any legal basis and was liable to be withdrawn.
5. The respondent also alleged that the complainant, Mr. Balram Dhir, had concealed material facts. He stated that Mr. Dhir himself, as well as members of his family, was holding multiple memberships in the Society. He further asserted that during his tenure as President, Mr. Dhir had approved and facilitated transfer of memberships under Section 91. According to him, several other members of the Society were similarly situated and possessed multiple memberships either in their own names or through family members, yet no action had been initiated against them.
6. In this regard, the respondent alleged that the proceedings reflected a selective and discriminatory approach. He contended that if the Registrar considered such memberships to be contrary to the provisions of the Act, then action should be initiated uniformly against all similarly placed members instead of targeting only a few individuals. He argued that the principle of equality before law required that any action, if warranted, be taken against all persons allegedly violating the same provisions.
7. The respondent also elaborated upon the interpretation of Section 91 of the DCS Act. He submitted that the provision was enacted as a beneficial measure to regularize occupancy rights of purchasers who had acquired flats through sale deeds, agreements to sell, or powers of attorney. According to him interpretation, the restriction contained in the proviso to Section 91 that a purchaser shall not be entitled to more than one membership in a housing society applies only in relation to a particular purchased property and was intended to prevent multiple memberships against the same flat. He argued that the complainant's interpretation of the provision was erroneous and contrary to the scheme and intent of the Act.
8. The respondent further stated that for many years the Society had been granting and transferring memberships in accordance with Section 91 and that such memberships had been reflected in records submitted to the Registrar. He emphasized that all members are equally liable to pay maintenance charges and discharge obligations towards the Society, and that the transfer of memberships had been recognized by various authorities dealing with property transactions, including the Sub-Registrar and municipal authorities.



9. In conclusion, the respondent reiterated that there had been no violation of the DCS Act on his part and that the Show Cause Notice dated 11.07.2024 had been issued solely on the basis of an unfounded and misconceived complaint. He therefore prayed that the proceedings initiated under Sections 87 and 41(d) of the DCS Act, 2003 be dropped and the Show Cause Notice be withdrawn.

FINDINGS AND OBSERVATIONS

I have carefully considered the complaint, the reply submitted by the respondent, the records of the Society and the provisions of the Delhi Cooperative Societies Act, 2003. The principal issue for determination is whether a person can simultaneously hold more than one membership in the same cooperative housing society and whether such dual membership is permissible under the provisions of the DCS Act, 2003.

Section 91 of the DCS Act, 2003 provides a mechanism for regularization of occupancy rights and transfer of membership in favour of a purchaser of a flat or plot. The provision enables a purchaser to obtain membership in place of the transferor member. The object of Section 91 is to facilitate substitution of membership consequent upon transfer of property and not to permit accumulation of multiple memberships in the same housing society by one individual.

The second proviso to Section 91 specifically provides that "no purchaser shall be entitled for more than one membership in a housing society." The legislative intent is clear that an individual purchaser cannot simultaneously enjoy multiple memberships in the same cooperative housing society. The provision is intended to preserve the democratic character of cooperative institutions and prevent concentration of membership rights in the hands of a single person.

The contention of the respondent that the restriction applies only with respect to a particular purchased property and not to multiple memberships in the same society is not borne out from the plain language of the statute. The Act does not contemplate grant or continuation of more than one membership to the same individual in a housing society.

The respondent has further relied upon the judgment of the Hon'ble High Court of Delhi in Balraj Dhingra vs. Registrar of Cooperative Societies & Others. However, the said judgment merely recognizes the remedy available to an aggrieved person against transfer of membership and does not dilute or override the statutory provisions governing eligibility and cessation of membership under the DCS Act, 2003. Therefore, the said judgment does not assist the respondent in the facts of the present case.

The records available on file reveal that the respondent is associated with Membership Nos. 383 and 336 in the Society. The respondent has not disputed the existence of both memberships and has instead sought to justify the same on legal grounds. Such justification cannot be accepted in view of the express prohibition contained in the second proviso to Section 91 of the DCS Act, 2003.

In view of the foregoing facts, findings and observations, it is hereby ordered that Mr. Santosh Aggarwal is not entitled to hold more than one membership in Backward Class &



Lower Income Group Co-operative Group Housing Society Ltd. Simultaneous continuation of Membership Nos. 383 and 336 are contrary to the provisions of the Delhi Cooperative Societies Act, 2003.

Accordingly, the first membership obtained by Mr. Santosh Aggarwal is held to be valid and permissible under the provisions of the Delhi Co-operative Societies Act, 2003. Consequently, all subsequent memberships acquired by him are hereby declared impermissible and stand ceased under Sections 41 and 87 of the Delhi Co-operative Societies Act, 2003. The Society is directed to make necessary corrections in its membership records and submit a compliance report to this office. The Deputy Registrar, Cooperative Societies (GH-1 Branch), is also directed to update the official records accordingly.

It is further directed that the Managing Committee shall scrutinize the membership records of all members of the Society and ensure strict compliance with the provisions of the Delhi Co-operative Societies Act, 2003 and the Rules framed thereunder relating to membership. In case any instance of dual or otherwise impermissible membership is detected, the Managing Committee shall immediately refer the matter, along with the relevant records, to the Registrar Co-operative Societies for appropriate action. Failure on the part of the Managing Committee to undertake such scrutiny or to report any case of dual membership that comes to its notice shall be viewed seriously and may invite proceedings under Section 37 of the Delhi Co-operative Societies Act, 2003 against the concerned Managing Committee and its office bearers.

The proceedings are disposed of accordingly.




Krishna Kumar Singh (IAS)
Registrar Cooperative Societies

Sent To

1. President/Secretary, The Backward Class & Lower income CGHS Ltd., BG-01, Shiva Enclave, A-4, Paschim Vihar, Delhi -110063.
2. Mr. Santosh Aggarwal, YF 22, YF 23, The Backward Class & Lower income CGHS Ltd., BG-01, Shiva Enclave, A-4, Paschim Vihar, Delhi -110063.
3. Balram Dhir, Flat No. XF-5, The Backward Class & Lower income CGHS Ltd., BG-01, Shiva Enclave, A-4, Paschim Vihar, Delhi -110063
4. DRCS (IT), O/o RCS
5. DRCS, Section -1, O/o RCS
6. Deputy Director, DDA, Vikas Sadan, INA, New Delhi, 110023
7. Guard File