

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/G3-62 - 68

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 Ms. Neelam Sharma in Backward Class & Lower Income Group Co-operative Group Housing Society Ltd., BG-01, Shiva Enclave, A-4 Paschim Vihar, New Delhi 110063

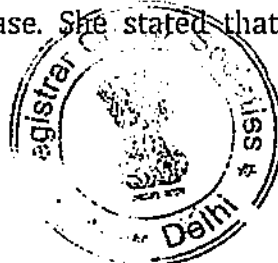
Brief facts of the case

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 Ms. Neelam Sharma, alleging that she is holding two memberships in the said society, bearing Membership Nos. 403 and 077, in her 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 her name or in the name of her 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, Ms. Neelam Sharma, submitted that the complaint filed by Mr. Balram Dhir is malafide, vexatious, and devoid of merit. She 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 Dhir 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, she 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 her case. She stated that she was not an original



9. In conclusion, the respondent reiterated that there had been no violation of the DCS Act on her part and that the Show Cause Notice dated 11.07.2024 had been issued solely on the basis of an unfounded and misconceived complaint. She 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. 403 and 077 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.

