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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 16th May, 2025

+ **W.P.(C) 12218/2021 & CM APPL. 38264/2021**

SH. RAJEEV SAXENA & ORS.

.....Petitioners

Through: Mr. A.K. Vashishtha & Mr. Rakesh
Kumar Singh, Advocates.

versus

REGISTRAR OF CO-OPERATIVE SOCIETIES & ORS.

.....Respondents

Through: Ms. Avni Singh, Panel Counsel for
GNCTD.

Mr. Om Prakash, Mr. Rajeev Pathak &
Mr. Ankur Agnihotri, Advocates for R-
2.

MR. Gaganmeet Singh Sachdeva &
Mr. Harshpreet Singh, Advocates for
DDA.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present writ petition is yet another example of how the Registrar of the Cooperative Societies is in fact becoming an impediment in the normal lives of citizens.
3. The Petitioners in this case - Sh. Rajeev Saxena, Mrs. Suparna Guha, Mr. Anup Banerjee, Mrs. Shashi Mehani and Mrs. Mita Datta have knocked



the doors of this Court and of various authorities since 2004 *i.e.*, for more than two decades. They are admittedly members of the DJA Cooperative Group Housing Society Ltd., at Plot No. 1A, Sector – 13, Dwarka, Phase- I, New Delhi – 110078 (hereinafter “*the Housing Society*”). The memberships of the Petitioners have been registered between the years 1996 to 2002.

4. It is the case of the Petitioners that the Housing Society had held the draw of lots on 14th March, 2004 for allotment of 145 flats for its members. It is stated that the Petitioners’ names were not part of the list forwarded by the Respondent No. 1 - Registrar of Co-operative Society (hereinafter “*the RCS*”) to the Housing Society. The said names were not forwarded by the RCS since certain dues were pending on part of the Petitioners. The Petitioners cleared all pending dues and provided the requisite documents to the RCS. Thereafter, on 28th November, 2004 the Managing Committee of the Housing Society is stated to have passed a resolution recommending that names of the Petitioners be sent to the RCS for draw of lots. Accordingly, the Housing Society, on 3rd December 2004 requested the RCS for holding the draw of lots. However, since the same did not bear any result, it appears that the Housing Society itself conducted the draw of lots and permitted the members to occupy their respective flats. This process is called as Self-draw.

5. On 31st March, 2005, the Housing Society informed the RCS of the self draw of lots and an approval of the same was sought. It is seen that since 2005 continuously, the RCS raised queries after queries, however, the approval was not given. In the meantime, there were various others societies who had also conducted the draw of flats by themselves without the approval of the RCS. Thereafter, on 20th September, 2011 Mr. Tejendra Khanna, the then Hon’ble Lieutenant Governor, Delhi (hereinafter “*the LG*”) had taken a decision *qua*



approval of the said self conducted draw of lots, in the following terms:

“ *I have perused the file.*

The notification to regularize the draw of lots of 26 societies and proposal for withdrawal of proceedings for supersession u/s 37 of the DCS Act are approved. The permission to invite other societies which might have conducted self-draw before 2010 to give them opportunity for regularization is also given.

I do not favour debarment of office bearers u/s 77(2) of DCS Act since the draws were held with the consent of all members and the outcomes were accepted unanimously. Evidently, no irregularity other than procedural, was involved.

Regarding the imposition of charges in money terms on the members, the recommendation of the Mathur Committee on this issue, as already approved, should be followed.

Khanna
(Tejendra Khanna)
Lt. Governor, Delhi
20.9.2011

6. The above notings were relied upon by the Housing Society and requests for regularization were again made to the RCS along with repeated reminders but to no avail. The records placed along with the petition are replete with the correspondence between the RCS and the Housing Society. The RCS has time and again requested for documents including membership application, payment receipt, pancard, ITR,



details *qua* the elections of the Managing Committee, audit of the Housing society etc. All of the said documents and details have been repeatedly submitted by the Housing society.

7. However, since there was no action taken by the RCS in respect of the draw of lots conducted by the Housing Society, the present petition has been filed. The prayer in this petition is as under:

“a) Issue a writ, order or direction in the nature of mandamus or any other similar writ or direction thereby commanding the respondents no. 1 and 2 to complete the documentation and formalities in respect of the membership of petitioners and make a recommendation to the respondent no. 3 for holding draw of lots for the five pending flats; and

in the alternative

b) Direct the respondent no. 1 and 3 to regularize the self draw of flats in respect of petitioners as per the application of respondent No. 2 made on 31.03.2005.”

8. The pleadings are complete and the counter affidavits have been filed by the RCS, the Housing Society and the Delhi Development Authority (hereinafter “*the DDA*”). The stand of the Housing society in the counter affidavit is that the self conducted draw of lots was done by the Housing Society itself and the same is an impermissible procedure. The stand of the society is set out below:

“That Respondent No.2 repeatedly requested the Respondent No. 1 to forward their names including the Petitioners to DDA for regularizing their membership/allotment. The case of aforesaid three members and the Petitioners herein are still pending for regularization of their



allotment/membership with the Respondent Authorities. Even as per the present Writ Petition, the answering Respondent No.2 have repeatedly requested the Respondent Nos. 1 and 3 for regularization of the self-draw of lots done on 29.03.2005 and allotment of their flats, which is permissible and can be approved as per the policy decision taken by Hon'ble LG, GNCT of Delhi on 29.09.2011 (Annexure P-23). It is submitted that there appears to be no legal impediment in regularization of membership and allotment of flats to aforesaid persons/members of Respondent No.2. further, it is submitted that the Cooperative Department, GNCT of Delhi vide Notification No.RCS/Policy/07/628 dated 31.07.2008 carried out amendment of Rule 19 of DCS Rules, 2007 by incorporating sub-rule (3) after sub-rule (2) as under:-

"(3) the Registrar, on an application from a cooperative society on behalf of member or members enrolled upto the 2nd July 2007 by such cooperative society in contravention of sub-rule (2) of notification no. F-3 7(Policy)/RCS/ 142 dated 19th October, 2007), may regularize the membership of such member or members."

In view of the above insertion of sub-rule (3) in rule 19 of DCS Rules, 2007, the authorities should have regularized the membership/allotment of flats to aforesaid members."

9. Thus, in principle, insofar as the RCS is concerned, its primary objection was that the self conducted draw of lots is in violation of the directive issued by the RCS dated 31st May, 1984 in terms of Rule 77 of the Delhi Cooperative Societies Rules, 1973 (hereinafter "*the DCS Rules*"). The



stand of the DDA is that the issue of eligibility of the Petitioners is to be decided between the Housing Society and the RCS and it has no role to play in the same.

10. Ld. Counsel for the Petitioners has made submissions. It is his stand that the Petitioners have repeatedly approached the Housing Society, the RCS and other authorities, however, the self conducted draw of lots for the flats has not been regularized. They all have been living in the Housing Society for the last more than 25 years. It is submitted that the inaction by the RCS has led to enormous harassment and frustration as the Petitioners are unable to enjoy full rights in their own property.

11. Ms. Avni Singh, ld. Counsel for the RCS submits that it is primarily due to self conducted draw of lots by the Housing Society, that the RCS has objected to the allotments of flats.

12. The Housing Society's counsel has submitted that the five Petitioners have been allotted the following flats.:

Sr. No.	Petitioner's Name	Flat Number
1.	MR. RAJEEV SAXENA	FLAT NO. C-301
2.	MRS. SUPARNA GUHA	FLAT NO. D-429
3.	MR. ANUP BANERJEE	FLAT NO. C-317
4.	MRS. SHASHI MEHANI	FLAT NO. A-108
5.	MRS. MITA DATTA	FLAT NO. D.404

13. The Court has heard the ld. Counsels for the parties. The clear picture that emerges from the facts submitted and the documents placed on record is that the Petitioners have been deprived of the legitimate entitlement to their property rights over the last two decades. The mistake, if any, could have only



been of the Housing Society and the RCS and not of the Petitioners. Initially, there were some pending dues due to which the Petitioners were not permitted to participate in the draw of lots. Thereafter, having cleared the said dues, the Petitioners' names were forwarded to the RCS by the Housing Society, however, no action has been taken on the same by the RCS. This has led to considerable harassment of the Petitioners. A perusal of the note dated 20th September, 2011, of the then Hon'ble Lieutenant Governor, Delhi, would clearly show that opportunity of regularization in such cases ought to be granted, if there is no irregularity in the allotment.

14. The Housing Society's affidavit is clear to the effect that the Petitioners are valid allottees in the society. The Housing Society initially requested RCS to do the draw of lots in respect of the Petitioners, however, since there was no action taken by the RCS, the Housing Society conducted the draw of lots only for the concerned members. A substantial numbers of members have been allotted their respective flats after the draw of lots which was conducted by the RCS. This Court of the opinion that the Housing Society obviously did not have any ill-motive in conducting the self draw of lots. The RCS ought to have taken a pragmatic view of the matter rather than repeatedly insisting on technicalities.

15. After having perused the noting of the Hon'ble Lieutenant Governor, Delhi, this Court is of the view that the RCS ought to have extended the benefit of the same to the Petitioners. The RCS having failed to extend the same, ought not to compel the Petitioners to run from pillar to post for allotment of their flats.

16. Under these circumstances, this Court exercising jurisdiction under Article 226 of the Constitution of India, hereby regularises the self draw of



lots conducted by the Housing Society in favour of the Petitioners.

17. The RCS shall now forward the names of the Petitioners within a period of two weeks to the DDA, so that the DDA can then execute the respective lease deeds in favour of the Petitioners. The said process shall be completed within a period of two months from now *i.e.*, by 15th July, 2025.

18. If the RCS or DDA is found to be delaying in this matter any further, exemplary costs would be liable to be imposed upon them to the tune of Rs. 5,00,000/- after 15th July, 2025.

19. The petition is disposed of in these terms. Pending application(s), if any, also stand disposed of.

20. List for compliance on 19th August, 2025.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 16, 2025

da/msh