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

Date of decision: 19th March, 2026

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W.P.(C) 13201/2024

VINEET BHARDWAJ

.....Petitioner

Through: Ms Rashmi Jain and Akhil Kumar
Berawal, Adv.

versus

REGISTRAR OF COOPERATIVE SOCIETY & ANR.

.....Respondents

Through: Mr. Gagan Kumar, Ms. Puja Jakhar,
Mr. Suraj Dhawan, Adv.
Mr. Abhinav Sharma, Mr. Ujjwal
Jain, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed, *inter alia*, seeking clearance of the Petitioner's membership in Respondent No. 2 - Gulshan-E-Iqbal CGHS Ltd. (hereinafter "*the Society*").
3. The brief facts of the case are that the Society had published on 23rd May, 2013 a public notice in two newspapers *i.e.*, Veer Arjun (Hindi) and The Hindu (English), in respect of one vacancy of membership therein. In response to the said notice, 24 applications had been received, out of which 10 were rejected. In respect of the remaining 14 applications which were approved, including the Petitioner's application, a draw of lots was conducted by the Society on 21st June 2013 and the membership was allotted to the Petitioner.



4. Further to the above, a Demand-cum-Allotment letter was issued to the Petitioner on 24th June, 2013 along with a share certificate with membership no. 398. The Petitioner was also asked to deposit a sum of Rs. 25,68,610/- within 30 days and the said amount was duly deposited.

5. However, the Registrar of Cooperative Societies (hereinafter “RCS”) refused to approve the said allotment on the ground that there was a violation of Rule 19(2) of the Delhi Cooperative Society Rules, 2007 (hereinafter “DCS Rules”). As per the said Rule, the RCS was required to be intimated within 15 days of the vacancy arising, and thereafter, an advance copy of the public notice in the newspaper had to be sent to the RCS. In addition to this, at the time of draw of lots an official of the RCS ought to have been present, but the draw of lots was conducted only in the presence of the President. For ease of reference, the Rule 19(2) of the DCS Rules is extracted hereunder:

“19. Conditions to be complied with for admission to membership:-

(1) [...]

*(2) In case of vacancy in a co-operative housing society the Registrar shall be intimated within a period of fifteen days of the vacancy and the same shall be filled by the committee by notifying it in leading national dailies/newspapers of Delhi in Hindi and English. **An advance copy of the advertisement shall be sent to Registrar for displaying the same on the website.** In case the number of applications are more than the notified vacancies the membership shall be finalized through **draw of lot in the presence of authorized representative of the Registrar.** Further if vacancy has arisen due to resignation of a member, then the resignation shall be made public by publishing in leading newspapers and the Registrar shall be informed of the same before publishing it alongwith*



the copy of the same and proof of payment of the share money and contribution etc. which shall be made through cheque.”

6. In view of the objection raised by the RCS, the Society did not proceed further. However, it is relevant to highlight that the Society did not refund the amount to the Petitioner as well.

7. Accordingly, when the concerned flat was not allotted to the Petitioner, the Petitioner filed a claim for arbitration under Section 70 of the Delhi Cooperative Societies Act, 2003 (hereinafter “DCS Act”) which was referred to a Sole Arbitrator. The Sole Arbitrator *vide* Award dated 6th March, 2017 in **Arb. Case No. 95/GH/DR/ARB/2013-14** held as under:

“(i) The then President of Respondent Society had been taken course of action of filling up one vacancy of society left out only after authorised by the Managing Committee in its meeting on 11.5.2013. The President of the Respondant Society was present at the time of draw and shown the resolution declaring him fully authorised by the Managing Committee in the MC meeting on 11.5.2013 so the draw is legal and legitimate and he was responsible to manage the representative of the RCS, in his absence the draw could have not been declared. The advertisement was cancelled by the RCS communicated on 26.8.2013 which in violation of Rule 19(2) of DCS Rules, after the draw, acceptance of money from the claimant. The act of the President is in gross violation of the provisions contained in the DCS Act and Rules.

(ii). The Respondant Society neither communicated to the Claimant in respect of cancellation of his claim to be a member of the society nor refunded the money deposited with, the Respondant Society which is against the provisions of the DCS Act and Rules. Even, the claimant was not given opportunity of personal hearing by the



society before cancellation of his claim.

(iii) As per provision under clause 12(a) of bye laws of the Respondent Society, the claimant has paid the share amount. Subsequently, as per provision under clause 12 (b) the share certificate issued in favour of the claimant. The Respondant Society has failed to give the possession of flat against the membership allotted/share certificate issued to the claimant after depositing of all money Rs. 25,68,610/- as demanded by the Respondent Society.

(iv) The Respondant Society without waiting the decisions of the RCS in respect of its correspondence dated. 07.06.2013 had called the GBM on 04.08.2013. The Respondant Society did not followed the provision under clause 18 (c) of the Bye-laws and the time was given. only 10 days for calling GBM while there is provision of 14 days clearly in advance as the notice dated 17 July, 2013 was issued on 26.07.2013 (through Speed post), which was in violation of this provision. The RCS vide communication dated 26.08.2013 had cancelled the advertisement dated 23.05.2013 issued by the Respondant Society. The RCS is the sole protector of the DCS Act and Rules has final authority to say in the functioning of the societies appropriately in accordance with the provisions of the DCS Act, 2003 and DCS Rules 2007. The then President and the members of the Managing Committee had acted upon on behalf of the Respondant Society prevailing the situation of that time. It is observed from the entire exercise made by them having lack of knowledge to apply the DCS Act and Rules, committed mistake to fill up one vacancy without obtaining the permission of the RCS. However, the Claimant had complied with the instruction of the Respondant society in the entire matter. (v) Considering the facts and circumstances of this matter, the foundation for calling the applications from the public through



Public Notice/advertisement dated 23.05.2013 has been refused by the RCS. However, the claim of the claimant can not be ruled out as he has complied the instructions of the Respondant Society in the matter. Therefore, the Respondant Society may take appropriate steps to settle the issue with the claimant in accordance with the provisions under the DCS Act and Rules. However, keeping in view of the natural justice to be extended to the Claimant, the Respondant Society may take course of action under the DCS Act and Rules, with the permission of the RCS to regularize the claim of the claimant.

(vi) Respondent society may take appropriate action under Section 77 (2) against the then office bearer who had taken such decision against the violation of the provisions of DCS Act and Rules.

(vii) The parties may bear their own cost.”

8. The said Award was challenged by the Society before the Delhi Cooperative Tribunal (hereinafter “DCT”) which *vide* order dated 6th July, 2018 upheld the Award and directed regularisation of the draw of lots conducted by the Society as also handing over of the possession of the flat to the Petitioner. The relevant paragraphs of the order dated 6th July, 2018 reads as under:

*“24. In our considered view, it is a fit case for invocation of provisions of Section 39 of the DCS Act which has been rightly done by **ld. Arbitrator who after making other observations has directed the appellant society to take, appropriate steps to settle the issue with the claimant in accordance with the provisions of /DCS Act’ & Rules, in order to regularise the claim of RI (claimant) and for handing over the possession of the flat. Ld.***



Arbitrator has also directed the appellant society to take appropriate action u/s 77(2) against the then office bearers of the appellant society.

25. There is no illegality, infirmity or impropriety in the impugned award. Therefore, the impugned award does not warrant any interference. The appeal is therefore, dismissed.”

9. The grievance of the Petitioner is that, till date, the Petitioner has not been allotted the concerned flat. The Petitioner had also written various letters to the RCS but to no avail.

10. Being aggrieved by the inaction of the RCS the Petitioner had preferred the *W.P.(C) 10515/2019*, wherein on 24th March, 2023, the Court was informed by the Id. Counsel for the RCS, that the case of the Petitioner has been recommended to be placed before the committee constituted under Rule 90 of the DCS Rules (hereinafter “*Rule 90 Committee*,”).

11. The Rule 90 Committee in its meeting dated 27th October, 2023 after considering all the background facts, came to the conclusion that the initial allotment was in violation of Rule 19(2) of the DCS Rules as the vacancy was filled up by the then President of the Managing Committee of the Society in the absence of other members of the Committee. In addition, Rule 19(2) of the DCS Act was also violated due to the fact that the RCS official was also not present during the draw of lots. The operative portion of the minutes of meeting of the Rule 90 committee dated 27th October, 2023 reads as under:-

“OBSERVATIONS OF THE RULE 90 COMMITTEE:-

The Committee carefully considered the agenda as placed before it. It was noted that enrolment of Sh.



Vineet Bhardwaj as member of the Society was in violation of Rule 19(2) of DCS Rules 2007 as the Vacancy was filled up by the then President of the MC of the Society without presence of even other members of MC and the Society did not comply with the directions of RCS to advertise the vacancy again as per Rule 19(2). Since the enrolment was itself void ab-initio, there is no question of its regularisation.

Moreover the case was not required to be placed before the Committee as RCS has not recommended the case to be in accordance with DCS Act, 2003 and DCS Rules, 2007 being violative of Rule 19 (2) of DCS of Rules 2007 as required under Section 77 of DCS Act and Rule 90 of DCS Rules, 2007. RCS, being the Statutory Authority should take action as per Act and Rules after apprising the Hon'ble High Court and after the matter is decided by the Hon'ble High Court.”

12. The **W.P.(C) 10515/2019** was disposed of *vide* order dated 18th July, 2024 by the Coordinate Bench of this Court, after considering the minutes of meeting of the Rule 90 Committee as extracted above, in the following terms:

“[...]

3. It is pertinent to mention that the present writ petition has been filed seeking approval of membership and allotment of flat to the petitioner against a vacancy in the cooperative society. During the pendency of the present petition, the matter was referred to the Rule 90 Committee.

4. The respondents have placed on record the minutes of the meeting dated 27th October, 2023 of the Rule 90 Committee wherein the petitioner's request for allotment of flat was rejected on the



ground that Rule 19(2) of DCS Rules, 2007 had been violated by the cooperative society. In view of the subsequent development, the present writ petition is dismissed.

5. However, the petitioner is given liberty to challenge the decision dated 27th October, 2023 in accordance with law. The rights and contentions of all the parties are left open”

13. As can be seen from the above order the Petitioner was permitted to challenge the decision of the Rule 90 Committee. Pursuant to the said liberty given to the Petitioner, the present writ petition has been filed seeking the following reliefs:

“A. Issue a Writ in the nature of Certiorari and/or any other appropriate Writ to quash/set aside the decision dated 27.10.2023 given by the respondent no.1 in the minutes of the Board meeting by the Respondent No. 1.

B. Issue a Writ in the nature of Mandamus and/or any other appropriate Writ thereby command the Respondent No. 1 to clear the membership of the petitioner and hand over the possession of the flat to the petitioner.

C. Pass any other such order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”

14. The Id. Counsels for the parties have been heard. The submission of Id. Counsel for the Petitioner is that the Petitioner ought not to be punished for any irregularity committed by the Society or the then President of its Managing Committee. The Petitioner had responded to the public notice



issued by the Society, deposited the amount demanded towards the allotment of membership and has been waiting since 2013 for allotment of the concerned flat.

15. It is submitted by Id. Counsel that any infraction of Rule 19 of the DCS Rules by the Society cannot visit upon the Petitioner with such drastic consequences.

16. On behalf of the Society, Mr. Gagan Kumar, Id. Counsel submits that then President of the Managing Committee of the Society had committed an irregularity and the allotment in favour of the Petitioner was *mala fide* as the mandatory Rule 19(2) of the DCS Rules had been violated. As per Id. Counsel for the Society, the requirement under Rules 19(2) of the DCS Rules, of intimating the RCS prior to publication and the presence of the RCS official at the time of draw of lots have both not been complied in this case.

17. On behalf of the RCS, Mr. Abhinav Sharma, Id. Counsel submits that the public notice which was published by the Society was communicated to the RCS only after the draw of lots was held. Hence, the entire process is itself vitiated.

18. Heard. The Society has a total of 135 members and one vacancy had arisen in respect of which the public notice was published in two newspapers being Veer Arjun (Hindi) and The Hindu (English). The Society had the obligation to intimate the RCS in advance of publication of the advertisement in terms of Rule 19(2) of the DCS Rules. As per the Counter Affidavit on behalf of RCS, *vide* letter dated 7th June, 2013 the Society had intimated the RCS about the publication of the public notice on 23rd May, 2013. Thereafter, the draw of lots was decided to be held on 21st June, 2013. Thus, there is no dispute that the public notice was first published in the newspaper and was



thereafter communicated with the RCS. However, the RCS failed to depute any official for the draw of lots held on 23rd May, 2013, and if the same had been deputed, in the opinion of the Court, this entire dispute itself would not have arisen.

19. This Court has, in a few cases, to meet the ends of justice, even approved self-draw of lots by the societies. In *Sh. Rajeev Saxena & Ors. vs. Registrar of Co-operative Societies & Ors., W.P.(C) 12218/2021*, this Court considering the noting of the Hon'ble Lieutenant Governor dated 20th September, 2011, *qua* opportunity for regularisation of self-draw, had held that such opportunity of regularization ought to be granted where there is no irregularity in the allotment. In this case, none of the other contesting members whose applications were approved *i.e.*, the remaining 13 applicants have raised any objection in respect of the allotment to the Petitioner. The Petitioner has already deposited the entire demanded amount and the Award dated 6th March, 2017 is in the favour of the Petitioner. The DCT has also taken view in favour of the Petitioner and has directed regularisation as also handing over of the possession of the flat to the Petitioner.

20. Under such circumstances, when the Id. Arbitrator and the DCT, have already taken a view in the favour of the Petitioner, this Court does not deem it fit to interfere in the same, as the Petitioner is an individual who had, *prima facie*, genuinely in a bona fide manner participated in the draw of lots pursuant to the public notice which was published by the Society.

21. In so far as the Petitioner is concerned no fault can be attributed to the Petitioner and it is due to this very reason that the Id. Arbitrator and the DCT have taken a view in favour of the Petitioner.

22. Under these circumstances this Court is of the view that the mere



infraction of Rule 19(2) of DCT Rules by the Society cannot result in injustice to the Petitioner who is not to be blamed. The affairs of the Society were not being managed by the Petitioner and it is for the Managing Committee to run the Society in accordance with law. Hence, the Petitioner cannot be made to suffer. More than 13 years have passed, since the amount was deposited and the Society has also enjoyed the amount. The successor Managing Committees also did not take a fair view and resolve the issues with the Petitioner.

23. Accordingly, the Rule 90 Committee's decision dated 27th October, 2023 is set aside. The possession of the vacant flat in the society shall be handed over to the Petitioner within a period of two weeks from today.

24. Needless to add, after receiving possession, the Petitioner is free to approach the authorities for the purpose of conversion of the flat from lease hold to free hold. If such an application or request is made the RCS shall process the same and recommend the Petitioner to the DDA. The Petitioner shall however, be obliged to make all the payments of maintenance etc. from the date when he acquires possession and if any other dues are there it should also be paid within a period of one month after the demand is raised.

25. The present petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

MARCH 19, 2026/prg/msh