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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 17th July, 2025

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W.P.(C) 10078/2025

ANKIT SAXENA

.....Petitioner

Through: Mr. Anil Mittal Adv.

versus

ROOPVILLA CO-OPERATIVE GROUP HOUSING SOCIETY LTD
AND ANR

.....Respondents

Through: Ms. Urvi Mohan, Adv. with Mr.
Sameer Shandilya, Sr. Asst., RCS**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 petition has been filed by the Petitioner- Ankit Saxena under Articles 226 and 227 of the Constitution of India, *inter alia*, assailing the order dated 28th March, 2023 in **Case No. 54/2016** passed by the Financial Commissioner (hereinafter, '*impugned order*').
3. The brief background is that the Petitioner was inducted as a member of the Roopvilla Co-operative Group Housing Society Ltd. (hereinafter, '*Society*') since 2006. There were certain allegations against the then President, Mr. V.K. Gupta of having recorded certain false minutes of the General Body Meeting (hereinafter, '*GBM*'). It was alleged that the Petitioner was cooperating with Mr. V.K.Gupta, which led to issuance of the following Show Cause Notices (hereinafter, '*SCNs*') dated 16th February, 2011, 11th



July, 2011, 1st August, 2011 and the final SCN on 11th November, 2011. Finally, the Society expelled the Petitioner from the membership of the Society.

4. The expulsion order was forwarded by the Society to the Registrar Cooperative Societies (hereinafter, 'RCS'). The said Registrar rejected the expulsion order which was challenged by way of a writ petition being ***W.P.(C) 5965/2012*** titled '***Roopvilla Cooperative GH Society Ltd v. Lt. Governor , Delhi And Ors***'. The Court in the said case had remanded the matter back *vide* order dated 21st August, 2012 for being decided afresh. The Petitioner's grievance is that there was no allegation against him and the main allegation was only against Mr. V.K. Gupta. The RCS however approved expulsion of the Petitioner on 30th August, 2013. The operative portion of the said order reads as under:-

"In view of the discussion made above, I find no reasons to interfere with the proposal of the society as there were sufficient grounds available with the society to proceed against the said members under Section 86 of the DCS Act and respondents(affected parties) have failed to rebut the charges levelled against them in the Show Cause Notice and later during further proceedings. In the facts and circumstances of the case, the proposal of the Society for expulsion of Sh. Vinod Kumar Gupta (Membership No. 1) and Sh. Ankit Saxena (Membership No. _282) from the membership of the society is accepted.

I, therefore, approve expulsion of Sh. Vinod Kumar Gupta (Membership No. 1) and Sh. Ankit Saxena (Membership No. 282) from the membership of Roop Villa CGHS Ltd., under Rule 99 of the DCS Rules, 2007."

5. A review was preferred in respect of said order which then led to



passing of the order dated 16th December, 2015 by the RCS. The operative portion of the said order reads as under:-

“I have carefully considered the averments of the parties and have also gone through the order dated 30.8.2013. The Ld pre-decessor in the order dated 30.8.2013 have incorporated the minutes of the MC of the society by virtue of which the applicant was expelled from the membership of the society. A perusal of the said minutes indicates that the centre point was Mr. Vinod Kumar Gupta. All allegations have been leveled against Sh. Vinod Kumar Gupta with regard to unauthorized issuance of advertisement and then filling up the vacancies, forging documents of society and issuing share certificates. The minutes also records the prosecution of Sh. Vinod Kumar Gupta and falsification of minutes of GBM and misusing them. The minutes merely records that he in collusion with other three members including the applicant illegally used the minutes to change the signatory of the society bank account. There is no other direct allegation against the applicant except showing him in collusion with Sh. Vinod Kumar Gupta. What was the collusion done by the applicant have not been placed on record. The law requires that the allegation must be proved and not merely stated. There has to be a specific illegal act which has been done by the member so as to say that he committed an act which so grave that being a member would be detrimental to the interest of the society. In the entire minutes there is nothing to show against the applicant which could lead to a conclusion that he in-fact committed an act so grave that his membership has to go. My Ld pre-decessor failed to appreciate this aspect of the minutes that apart from using the word collusion there is nothing in the minutes that shows that the illegal act was committed by the applicant. Reliance has been placed by my pre-decessor on the misuse of the GBM minutes dated 6.6.2010. The society in its reply



had categorically admitted that the minutes were falsified by Sh.Vinod Kumar Gupta wherein no decision was taken to co-opt the applicant. Thus the minutes were not falsified by the applicant but by Sh.Vinod Kumar Gupta, as the applicant was nowhere in picture when the alleged falsification of minutes had taken place. It was only Sh.Vinod Kumar Gupta who was responsible for the falsification as can be easily seen from the minutes so recorded by the MC in its meeting, which forms part of the order dated 30.8.2013.

In order to expel a member, the society has to fulfill the provision of Section 86 of DCS Act, 2003 which reads as under:
86. (1) Notwithstanding anything contained in this Act and the rules framed thereunder, the committee of a co-operative housing society may, by a resolution, expel a member on any one or more of the following grounds, namely –

- (a) if he has been a persistent defaulter in respect of any dues of the co-operative housing society; or*
- (b) if he has willfully deceived the co-operative housing society by making any false statement or submitting any false document to obtain the membership of such co-operative society; or*
- (c) if he has brought disrepute to the co-operative society or has done any other act detrimental to the interest and proper working of the co-operative society:*

It is only within the four corner of above section that the society can expel a member. However in the present case, the applicant is neither a defaulter nor obtained the membership by false means nor has brought any disrepute to the society or done any act which is detrimental to proper working of the society. If any illegal act was done by him, the society ought to have



taken the matter to the investigating agency to find out the truth first but that has not been done by the society and have assume itself as power of investigator and of a judge. If such a practice is allowed, then it would be against the principles of natural justice. There has to be a finding from a competent court of law that the applicant was infect in collusion with Sh.Vinod Kumar Gupta in illegal activities as alleged by the society in its minutes and only then his membership can be terminated, that too as per the Law and not otherwise.

With these observations, I hereby recall the order dated 30.8.2013 and reject the expulsion proposal submitted the society vide letter dated 20.11.2011."

Thus, in the review application the expulsion was recalled.

6. The said review order dated 16th December, 2015 was challenged by the Society, before the Financial Commissioner who came to the conclusion that in order for the RCS to have reviewed its own order, there ought to have been an error apparent on the face of the record, which it did not find. Thus, the Financial Commissioner again remanded the matter for fresh decision to the RCS. The relevant portion of the impugned order which was passed by the Financial Commissioner on 28th March, 2023 reads as under:.

"10. The power of review is very limited and the Court does not rehear the case at hand. The purpose of a review petition is limited to remedying an apparent error or for correction of a mistake. Clearly the scope of review does not allow any court to sit on judgement over its own orders and in the present case, the RCS has clearly done so. On this ground, the order of RCS dated 16.12.2015 cannot be supported and is accordingly set aside.

11. In the light of the above rulings of the Hon'ble Apex Court, the matter is remanded back to RCS to dispose of



the review petition within the limitation cast by the law which in a nutshell is also referred above. The RCS is directed to hear all the parties and decide the review application within three months. The RCS will be at liberty to allow the review application to be agitated before the appropriate forum in appeal/revision as the case may be, if it appears to the RCS to be legally and just way forward to impart justice. 12. With these directions, the matter is remanded back to the RCS and the revision petition No.54/2016 titled Roopvilla CGHS Vs. RCS & Anr. is disposed of. No order as to costs.”

7. Mr. Anil Mittal, Id. Counsel for the Petitioner submits that the delay in filing the present writ petition challenging the impugned order is due to the medical exigency in his family.

8. Ms. Urvi Mohan, Id. Sr. Standing Counsel for the RCS has, however, submitted that the Petitioner has been continuously participating in the proceedings before the RCS after the remand.

9. The original file of the RCS proceedings, upon remand, has also been produced today which shows that various hearings have taken place before the RCS on 8th January, 2024, 6th February, 2024, 19th March, 2024, 7th May, 2024, 4th July, 2024, 20th August, 2024, 19th September, 2024, 21st November, 2024, 16th January, 2025, 4th March, 2025, 25th March, 2025, 1st May, 2025 and 29th May, 2025. All these hearings have been attended by the Petitioner. The next date of hearing before the RCS is 29th August, 2025.

10. The short issue that arises in this entire matter which has now been pending for whatever reason, for the last more than 13 years, is whether the Petitioner had any role to play in the alleged false minutes of the GBM held on 6th June, 2010 or not. The RCS would have to also generally examine if



there are any allegations serious enough for the Petitioner for being expelled from membership. This issue ought to be adjudicated expeditiously. The matter has been remanded back once by this Court and once by the Financial Commissioner. Accordingly, it is made clear that no unnecessary adjournments shall be granted by the RCS.

11. Let the RCS take a final call in this matter within a period of two months from 29th August, 2025.

12. Needless to add, this Court has not considered the merits of the matter. All rights and contentions of the parties are left open.

13. The writ petition is disposed of in the aforesaid terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

JULY 17, 2025

kk/ck