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

\+ W.P.(C) 1483/2015, C.M. NO.2614/2015

JAGAN LAL ..... Petitioner

Through : Sh. Sameer Sharma, Advocate.

versus

REGISTRAR COOP. SOCIETIES, DELHI & ANR..... Respondents

Through : Sh. Amit Singh, Advocate, for Respondent No.1.

Sh. B.S. Singh, Advocate, for Respondent No.2.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% **01.03.2016**

The two grounds urged in support of the present petition challenging an order of the Registrar Cooperative Societies (RCS) dated 20.05.2013 which was subsequently confirmed by the Delhi Cooperative Tribunal (DCT) is that: (i) the mandatory requirements of Section 55 of the Delhi Cooperative Societies Act, 1972 (hereafter "1972 Act") were not followed and that the procedure prescribed in Rule 87 of the Delhi Cooperative Societies Rules, 1973 (hereafter "the 1973 Rules") before any order is made was also violated.

The petitioner was at the relevant time an office bearer of the respondent society. Complaints were made by certain members that he had misappropriated/not accounted for amounts. On the basis of these complaints, an enquiry was ordered which culminated in a report by the RCS who by an order dated 20.05.2013, directed the recovery of ₹45,000 with interest. The petitioner contended that the said order was illegal and carried the matter in appeal to the Delhi Cooperative Tribunal which by an order dated 21.05.2014 rejected the appeal. The subsequent review petition was dismissed on 26.08.2014. Learned counsel for the petitioner contends that the challenge is to the maintainability of enquiry proceedings, contending that Section 55 of the 1972 Act empowers the RCS to take action only if the prescribed number of members of the society, i.e. not less than 1/3rd or a majority of the membership of the Committee, complain to set the machinery in motion. It is highlighted that the complaint fell short of the prescribed numbers and consequently the initiation of enquiry itself was illegal. It is next urged that the procedure adopted by the RCS after receipt of enquiry report was contrary to Rule 87 of the said 1973 Rules inasmuch as the petitioner was not given any Show Cause Notice or afforded any opportunity to give his comments or address his argument in respect thereof. On the merits, it was urged that the petitioner had not in fact misappropriated any amounts but was permitted to withdraw the amounts on account of various expenditures to be incurred by the Society towards litigation and payment of staff etc.

So far as the first objection to the order of RCS goes, the Court finds no merit in the petitioner's contention. Section 55 not only prescribes the minimum number of members of the Managing Society/society who can set the machinery into motion but also empowers the RCS to, "on it own motion" institute an appropriate enquiry. In this case clearly, the power existed even if the number of members fell short of the prescribed figure in the later part of Section

55. So far as violation of Rule 87 goes, the Court notices that firstly the petitioner did not make this a ground of challenge in the revision petition but raised it in review proceedings. Further, the order of the RCS made after receipt of the enquiry report itself records the contents of the report besides submissions made on behalf of the petitioner. Clearly, therefore, the petitioner cannot complain that he was neither issued notice nor given opportunity by the RCS when the latter issued the order for recovery of ₹45000/-. So far as the merits are concerned, we notice that the Society's case was not that the petitioner misappropriated amounts but rather that he did not account for the amounts withdrawn by him. The enquiry report of the RCS as affirmed by the Delhi Cooperative Tribunal accepted the petitioner's explanation that ₹30000/- was to be paid to a lawyer due to a pending litigation. With respect to the other expenditure, learned counsel relied upon a chart which outlined various vouchers; however, these vouchers only contained certain particulars but did not furnish details of those figures - they are not receipts for which expenditures incurred. When an office bearer is entrusted with money, it is expected that he acts to the satisfaction of the members generally and the office bearers in particular. Having regard to the discussion, we find no merit in the petition. It is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MARCH 01, 2016/ajk