



\$~2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 939/2023**

DELHI BRUSH MANUFACTURING ASSOCIATIONPetitioner

Through: Ms. Sanya Bhatia, Advocate.

versus

STATE OF NCT OF DELHI AND ORS.Respondents

**Through: Mr. Udit Malik, SC (Civil) with Mr.
Vishal Chanda and Ms. Rima Rao,
Advocates for GNCTD.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

17.12.2024

%

1. By this writ Petition, the Petitioner, a society registered under the Societies Registration Act, 1860 since 1969, seeks redress against the Respondent-authorities' failure to produce their original certificate of registration. Over time, the Respondents have informed the Petitioner, through multiple applications under the Right to Information Act, 2005, that the original file pertaining to the Petitioner-society has gone missing due to the decentralization of societies and firms, as effected by a notification dated 26th March, 2010.

2. The Respondents have been directed to reconstruct the file in accordance with the Societies Registration Act, 1860 and other applicable provisions, however, there has been no effective resolution. Procedural orders have previously been issued in this case, some of which are extracted



below:

PROCEDURAL ORDERS:

3. On 24th November, 2023, this Court passed the following order:

“1. Aggrieved by the fact that the Petitioner’s file for registration as a Society under the Societies Registration Act is missing and the Petitioner is unable to obtain a copy of the Registration Certificate, the Petitioner has approached this Court by filing the instant writ petition with the following prayers:-

“a Issue a writ of mandamus and/or any other appropriate Writ or direction, directing the Respondents to lay down a set of guidelines/ rules/ procedures for the reconstruction of the original record of the petitioner association, i.e., the Delhi Brush Manufacturing Association;

b) Pass any such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. On 25.01.2023, this Court expressed concern that official records and more particularly in the office of Registrar of Societies are missing. A Satisfactory response has not yet been given by the Respondents as to what is the procedure employed for reconstruction of the missing files.

3. Let a detailed affidavit be filed by the State Government indicating the number of files missing and the procedure for reconstruction of such files. However, in the facts of the present case, the Respondent is directed to reconstruct the file and give a copy of the same within a period of six weeks from today.

4. Let the affidavit be filed within three weeks from today.

5 For the purpose of reconstruction, if any documents are required, the Petitioner be intimated regarding the documents to be furnished within a period of three weeks from today.

6. List on 19.12.2023.”

4. Subsequently on 6th February, 2024, further directions were issued to the following effect:

“1. The Petitioner, which is registered under the Societies Registration



Act, 1860, has approached this Court with the following prayers:

- “a) Issue a writ of mandamus and/or any other appropriate Writ or direction, directing the Respondents to lay down a set of guidelines/rules/ procedures for the reconstruction of the original record of the petitioner association, i.e., the Delhi Brush Manufacturing Association;*
- b) Pass any such other and further orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”*
- 2. As noticed in the earlier Orders, it is a matter of grave concern that official records in the Office of the Registrar of Society are missing. The fact that documents are missing cannot prejudice the Petitioner to obtain the Registration Certificate.*
- 3. It is stated that the Petitioner has already filed an FIR stating that the documents are missing.*
- 4. This Court on 24.11.2023 had directed the State Government to file a detailed affidavit indicating the number of files that are missing and the procedure for reconstruction of such files. A status report has been filed by the State Government. The status report indicates that files pertaining to 124 societies are missing in District West. It is stated in the status report that the Petitioner was called on to the Office of the Registrar of Society, West District to provide all the documents pertaining to the Petitioner/association.*
- 5 Learned Counsel for the Petitioner contends that since the documents have been lost, the Petitioner was unable to produce any documents.*
- 6. The Respondents are directed to devise a procedure to enable persons/entities to get their file re-constructed in view of the fact that the documents are missing from the Office of the Registrar of Society. Let an affidavit be filed within four weeks from today.*
- 7. List on 14.05.2024.”*

5. On 3rd July, 2024, the Court noted non-compliance of the directions and passed the following order:

- “1. Order dated 06th February, 2024 has not been complied with by*



the Respondents. Mr. Udit Malik, ASC for GNCTD, explains that instructions received from Respondent No.1 are not adequate and certain things are yet to be streamlined.

2. In the opinion of the Court, sufficient time has been granted to Respondent No.1 and yet the directions have not been complied with. Therefore, the Court considers it appropriate to direct the personal presence of Mr. Asheesh Kumar, SDM, Rajouri Garden and Mr. Balram Meena, Additional DM, HQ before this Court, on the next date of hearing.

3. Re-notify on 26th September, 2024.”

6. On 26th September, 2024, Mr. Malik’s statement was recorded to the following effect:

“1. Mr. Udit Malik, ASC for GNCTD, states that certain documents have been received from the Petitioner yesterday. He further states that the Respondents shall examine the same and proceed with the reconstruction of the record to the extent it is feasible. For this purpose, he seeks a short accommodation.

2. Considering the above, the personal appearance of the SDM and ADM, as directed in previous order, is dispensed with, subject to further directions.

3. List on 21st October, 2024.”

7. On 21st October, 2024, the Court noted response of the Respondents and observed as follows:

“1. Mr. Udit Malik, ASC for GNCTD, states that on scrutiny of the documents submitted by Petitioner, a discrepancy regarding one of the documents has crept up, which has been informed to counsel for Petitioner. Let a communication to this effect be officially sent to Petitioner and their counsel, who shall give a response thereto within one week from today.

2. On response being received by Respondents, they shall proceed to reconstruct their records, as assured to the Court, within four weeks thereafter.

3. Re-notify on 17th December, 2024.”



CONTENTIONS OF THE PARTIES:

8. In such background, Mr. Udit Malik, counsel representing GNCTD, submits that the Office of Sub-Divisional Magistrate (Rajouri Garden) has issued an undated communication No. ROS/ROF/WEST/MISC./2024, enumerating documents required from the Petitioner for reconstructing the file. A copy of the said communication has been handed over across the Board and is taken on record.

9. On the other hand, counsel for the Petitioner states that the said communication was only received yesterday at 01:30 PM *via* email. She contends the Respondents are unnecessarily delaying the matter. Further, she urges that the Respondent authorities seem to be treating the matter like a fresh registration application rather than a reconstruction of existing records.

10. In response, Mr. Udit Malik, counsel representing GNCTD, denies any deliberate delay. He assures once the Petitioner furnishes the requested documents, the reconstruction will proceed without further hindrance.

DIRECTIONS:

11. The Court has carefully considered the submissions of the parties and the facts of the case. It is evident that the Respondents have been negligent in maintaining the Petitioner's records, leading to the present situation. Public records such as registration files of societies are crucial and their loss not only causes inconvenience but also affects the legal status and functioning of such registered entities. The State has a duty to ensure the safekeeping of such records and to address any lapse expeditiously.

12. This Court is of the view that the State must adopt a more streamlined and responsible mechanism for handling such instances, particularly where the fault lies with the authorities.



13. The obligation to reconstruct the file squarely lies upon the Respondent-authorities, as the loss of records cannot prejudice the rights of the Petitioner. The Petitioner, for its part, must promptly comply with the Respondents' requests. The Respondents, must nonetheless acknowledge their responsibility and expedite the process without saddling the Petitioner with extraneous demands or speculative queries. On this issue, this Court in *Asha Rani Arora v. State of NCT of Delhi and Ors.*¹ issued similar directions for reconstructing revenue record of the Petitioner therein.

14. In view of the foregoing, the petition is disposed of with the following directions:

- (i) Respondents No. 1 and 3 shall take immediate steps to reconstruct the Petitioner's file. The process shall be completed within a period of two weeks from today.
- (ii) The Respondents shall not treat the reconstruction process as a fresh registration application and must ensure that unnecessary procedural hurdles are avoided.
- (iii) Petitioner shall cooperate with the Respondents and furnish all necessary documents and affidavits requested for the reconstruction process.
- (iv) Respondent No. 3 shall ensure that all records pertaining to registered societies are digitized, if not already done, to prevent such instances in the future. A proper file management system shall also be put in place to ensure that public records are safeguarded and not misplaced.
- (v) Counsel for Petitioner has also pointed out that they are operating at property bearing No. 53, West Avenue Road, Punjabi Bagh, New Delhi – 110026 which is residential property of late Mr. S.L. Ahuja. The property

¹ W.P.(C) 1949/2021 decided on 27th October, 2022.



has now devolved on his son Mr. Girish Ahuja, who is also a member of the society. Mr. Girish Ahuja has no objection to the Petitioner-society operating from the address in question. To this effect, he has already furnished an affidavit twice. Nonetheless, the copy of the title deed in respect of the residential address shall be furnished to Respondent No. 1. Mr. Naveen Bhatnagar, the Secretary of the Petitioner-society, shall also meet the Registrar of Societies on 23rd December, 2024 and furnish the necessary affidavits as requested.

(vi) Additionally, the Petitioner asserts that they are not a Multi-State Cooperative Society. Nonetheless, the affidavit under the circular dated 24th August, 2020 shall be furnished by the Petitioner within a period of two weeks from today.

15. With the above directions, the present petition along with pending application(s), if any, is disposed of.

SANJEEV NARULA, J

DECEMBER 17, 2024

as