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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + **W.P.(C) 6245/2023, CM APPL. 24574/2023, CM APPL. 31598/2023, CM APPL. 46938/2023 & CM APPL. 46939/2023**

D S KUNDU

..... Petitioner

Through: Petitioner in person

versus

CHIEF SECRETARY DELHI AND ORS

..... Respondents

Through: Mr. Satyakam, ASC with Mr. Ganesh Kumar Bhatta, Adv. for GNCTD.
 Mr. S.S. Dalal, Mr. Vipin Rathe, Mr. Prajwat Sharma and Mr. Aniket, Advocates for R-3 to R-6.

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Date of Decision: 25th January, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T(ORAL)

1. Mr. Satyakam, learned standing counsel for Respondent Nos. 1 and 2 has drawn this Court's attention to orders dated 16th May, 2023 and 21st July, 2023 passed in this petition recording the grievance of the Petitioner that essential services, which are relevant to a member of Philips Co-operative Group Housing Society Ltd. ('Society') have been unilaterally withdrawn, because of which Petitioner is unable to reside in his flat in the Society.

2. The learned standing counsel states that in pursuance of the orders passed in this petition, the office of the Registrar of Co-operative Societies ('RCS') deputed two (2) officers to visit the Society. He states that the said officers visited the Society on 02nd June, 2023 and have submitted a report



along with videography. He states that in the said report, the two (2) officers have reported that the essential services such as the electricity, water etc. were found intact. He states that as per the said report, RCS is satisfied that essential services are available to the flat of the Petitioner.

3. Mr. S.S. Dalal, learned counsel for the Society states that essential services are being provided to the flat of the Petitioner and the allegations to the contrary are not admitted. He states that in fact, the Petitioner is presently not residing at the flat.

4. In addition, he states that the present petition alleging non-supply of essential services is disputed by the Society. He states that a separate writ petition i.e., W.P.(C) 8771/2020 titled as '**D S Kundu v. Registrar, Coop Societies & Anr.**' was earlier filed by the Petitioner before this Court, on the similar allegation of non-compliance of essential services under Rule 102 of the Delhi Co-operative Societies Rules, 2007 ('DCS Rules, 2007'). He states that the said petition was dismissed by the Division Bench of this Court, vide judgment dated 20th May, 2022, holding that the issues raised by the Petitioner were disputed facts which cannot be adjudicated upon in writ proceedings.

5. This Court has considered the submissions of the parties and perused the record.

6. In view of the orders dated 16th May, 2023 and 21st July, 2023 it is apparent that the substratum of the dispute raised by the Petitioner is with respect to provision of the essential services to his flat.

7. The Petitioner has not disputed that the two (2) officers of RCS visited the Society for inspection on 02nd June, 2023. In view of the statement made by learned standing counsel appearing for RCS that the said



officers have reported that essential services are available to the subject flat and also in view of the submission made by the counsel for the Society that the essential services are being provided, we are of the opinion that the reliefs sought in the petition stand satisfied.

8. We have also perused the judgment dated 20th May, 2022 passed by the Coordinate Bench of this Court in W.P.(C) 8771/2020 and find force in the submission of the learned counsel for the Society that the issues raised in this petition were similarly agitated in the earlier petition. The Coordinate Bench after observing that the Petitioner has raised disputed facts, dismissed the petition reserving liberty to the Petitioner to avail his remedies in law. In view of the observation made by the Coordinate Bench (more specifically at paragraphs 12 to 14) the Petitioner was therefore, estopped from filing the present petition.

9. Be that as it may, in case the Petitioner has any surviving grievance with respect to provision of essential services to his flat as contemplated under Rule 102 of the DCS Rules, 2007, he is directed to avail his statutory remedy under the Delhi Co-operative Societies Act, 2003 in accordance with law.

10. With the aforesaid directions, the present petition along with pending applications stand disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JANUARY 25, 2024/msh/MG

Click here to check corrigendum, if any