



2024:DHC:3776-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6377/2024 & CM APPL. 26503-26504/2024**
JAGRITI NAGAR COOPERATIVE HOUSE BUILDING SOCIETY
LTD Petitioner

Through: Mr. Sandeep Kumar, Advocate
(through VC)

versus

REGISTRAR COOPERATIVE SOCIETIES
& ORS.

..... Respondents

Through: None

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Date of Decision: 07th May, 2024.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ: (ORAL)

CM APPL. 26504/2024(for exemption)

1. Allowed, subject to all just exception.
2. Accordingly, the present application stands disposed of.

W.P.(C) 6377/2024 & CM APPL. 26503/2024

3. Present writ petition has been filed under Article 226 of the Constitution of India, seeking quashing and setting aside of the Order dated 13th December, 2017 passed by the Registrar Cooperative Societies ('RCS') in Case no. 47/GH/RCS/2815-2820 and orders dated 01st November, 2022 and 15th December, 2023 passed by the Finance Commissioner in Case No. 99/2018 and Case No. 55/2023, respectively (collectively 'Impugned Orders').



4. It is stated that on 12th April, 1984, Respondent No. 3 applied for the membership of Jagriti Nagar Cooperative House Building Society Ltd. i.e., the Petitioner Society herein.

4.1. It is stated that in the year 2003, a complaint was filed before the Administrator of the Petitioner Society, regarding her membership. The said complaint was taken up by RCS and by Order dated 15th February, 2012, RCS disqualified Respondent No. 3's membership with the Petitioner Society.

4.2. It is stated that the aforesaid Order dated 15th February, 2012, was challenged by Respondent No. 3 before this Court by way of filing of W.P. (C) No. 2531/2012. Subsequently, this Court by its Order dated 06th November, 2012 disposed of W.P. (C) No. 2531/2012 and directed RCS to re-examine the matter.

4.3. Thereafter, RCS *vide* its Order dated 13th December, 2017, held that Respondent No. 3 had not incurred disqualification under Rule 25 of Delhi Cooperative Societies Rules, 1973 ('DCS Rules, 1973'). The RCS opined that Respondent No. 3 who was gainfully employed as a teacher for 31 years had purchased the flat with her own funds.

4.4. It is stated that aggrieved by Order dated 13th December, 2017, the Petitioner Society filed a Revision Petition being Case No. 99/2018, under Section 116 of Delhi Co-operative Societies Act, 2003 ('Act of 2003'). The learned Finance Commissioner *vide* its Order dated 01st November, 2022 upheld RCS's Order dated 13th December, 2017 basis that the Petitioner Society had not put forth any new ground before it, which has not already been agitated before the RCS.

4.5. It is stated that thereafter, the Petitioner Society filed a Review



Petition being Case No. 55/2013, under Section 115 of Act of 2003 challenging the Finance Commissioner's Order dated 01st November, 2022. The learned Finance Commissioner *vide* its Order dated 15th December, 2023 dismissed the said review petition holding that the same was not maintainable.

5. Aggrieved by the Impugned Orders, the Petitioner Society has preferred the present writ petition.

6. It is the case of the Petitioner Society that Respondent No. 3 has incurred a disqualification under Rule 25 of the DCS Rules, 1973.

7. In this regard, we may note that both RCS and the Financial Commissioner have returned concurrent findings of fact that the Respondent No. 3 who was gainfully employed as a teacher in MCD School had paid for the allotment of the flat from her independent source of income. The relevant finding of the Financial Commissioner in its Order dated 01st November, 2022, read as under:

"9. In accordance with the above directions of the Hon'ble High Court of Delhi, the Registrar Cooperative Societies has heard the matter again and passed the impugned order dated 13.12.2017. It is seen that the RCS has examined the following issues in the impugned orders i.e. disqualification of R-1 under rule 25(2) of the DCS Rules which was ordered on the basis of report of Justice P. K. Bahri (Retired), as a whole & not to follow the findings of the committee and its findings on the basis of scrutiny of the documents filed by R-1 reflecting the payments made to the society to obtain membership. The RCS has based its findings after taking into consideration the directions of Hon'ble High Court in the matter while remanding the case and provisions of the DCS Act and Rules. The RCS has also categorically examined the various payments made by R-1 alongwith proof of payments and its sources towards the plot of the society as disclosed by R-1. R-1 has also filed documents reflecting the payments to the society before the RCS. It is also seen from the impugned orders that though the society has alleged that it is doubtful that R-1 has made payment to the society out of her own funds, but no documentary evidence was



*adduced either before the RCS or before this Court in support of the same. The RCS has also gone into various citations referred to by both the sides before coming to the conclusion. The RCS in impugned order held that ..the case of the petitioner i.e. Smt. Ratna Mohla is that she became a member of the society and made payments out of her own funds and thus does not incur disqualification under Rule 25(1)(i) of the said Rules. There is no prohibition on the petitioner being a member of the society and owning a flat if the funds for the same have come through the sources of the petitioner and it is not the case where late husband of Smt. Ratna Mohla was seeking a membership or an allotment by providing funds to the wife.... **It is also an undisputed fact that R-1 herein was employed as a teacher in MCD and rendered her services for about 31 years and she was enrolled as a member of the society in her own right.** The RCS has also touched upon the issue of submissions of false affidavits by R-1 and it was the contention of R-1 that she has not incurred any disqualification as the affidavits are to be read in conformity with the provisions of Rule 25 of DCS Rules, 1973.*

(Emphasis Supplied)

8. The Petitioner Society has not disputed the concurrent findings of fact that Respondent No. 3 was gainfully employed as a teacher. Respondent No. 3 applied for and was admitted to membership of the Petitioner Society on 12th April, 1984 and the issue of her ineligibility was raised for the first time in the year 2003.

9. In our considered opinion, in view of the concurrent findings of fact in favour of Respondent No. 3, this issue of alleged disqualification needs to be given a quietus after forty (40) years and we are not inclined to interfere.

10. Accordingly, the present petition is dismissed along with pending applications.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J



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MAY 7, 2024/hp/MG