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

+ **W.P.(C) 6946/2025 & CM APPL. 31433/2025**

ADESH KUMAR & ANR.

.....Petitioners

Through: Mr. Bipin Kumar & Mr. Himanshu
Shukla, Advocates.

versus

**THE REGISTRAR, CO-OPERATIVE SOCIETIES, GOVERNMENT
OF NCT OF DELHI & ANR.**

....Respondents

Through: Mr. Sameer Vashisht, Standing
Counsel (Civil), GNCTD with Ms.
Harshita & Mr. S. Singhal, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **22.05.2025**

1. This hearing has been done through hybrid mode.
2. The present petition under Articles 226 and 227 of the Constitution of India has been filed by the two Petitioners namely, Adesh Kumar and Prashant Gupta, *inter alia*, challenging the impugned letter dated 13th May, 2025 (hereinafter "*the impugned letter*"), issued by the Respondent No.2 - Returning Officer, Nav Nirman Co-operative Group Housing Society Ltd. (hereinafter "*the Housing Society*").
3. *Vide* the impugned order, the Respondent No.2 has rejected the nominations of the Petitioners who are stated to be permanent members of the Housing Society.
4. It is the case of the Petitioners that the election of the Housing Society



is scheduled on 25th May, 2025. The Respondent No. 2 - Returning Officer, namely, Mr. M.K. Gupta, has also been appointed and the Petitioners had duly filed their respective nomination forms. The Petitioners are aggrieved by the fact that their nominations, after scrutiny, have been rejected by the Respondent No. 2. The relevant observations of the Respondent No. 2 in the impugned letter read as under:

“Invalid domination

“1. Shri Aduh Kumar, Membership no. 369 -Shri Adesh Kumar has not filled the MC post in the Nomination Form for contesting the MC election of the society. Hence, the nomination is invalid.

2. Shri Prashant Gupta, Membership No.451/1S1-Shri Prashant Gupta has filled his membership number in his Nomination Form in one column as 451 and in other column as membership no. 151. Both the membership numbers differs. Hence. the nomination is invalid.”

5. Ld. Counsel for the Petitioners submits that in both the nomination forms there is merely a typographical error, which does not affect the candidature or identification of the Petitioners. Both their identities are well-established and each of the grounds which have been raised in the impugned letter for rejection of their nominations, are quite frivolous and specious. Reliance is also placed upon the decision of the Court in ***Adesh Kumar vs. The Registrar Cooperative Societies Govt. Of N.C.T. of Delhi and Anr.*** being ***W.P.(C) 11558/2018*** dated 26th October, 2018.

6. Yesterday i.e., 21st May, 2025, when the matter was listed, the Court had called for the original nomination forms filed by the Petitioners. Today, Mr. Sameer Vashisht, Id. Standing Counsel, GNCTD, has produced the



original nomination forms.

7. The Court has heard the parties and perused the original nomination forms of the Petitioners. As per the impugned letter, Mr. Adesh Kumar's candidature has been rejected for the reason that, in the declaration by the candidate the position for which the person was contesting has not been clearly reflected. However, a perusal of the original nomination form would show that in the said form, where the proposer and seconder have signed, it is clear that the Petitioner - Mr. Adesh Kumar, is contesting for the post of 'MC member'. The same is evident from a first look at the concerned form itself.

8. Further, insofar as Mr. Prashant Gupta is concerned, his membership No. is 451, however, at the place where the candidate has signed, it has been mentioned as No. 151, which is simply an error.

9. In the opinion of the Court, both of the said objections seem to be mere inadvertent errors. Further, the Court is in agreement with the reasoning in **Adesh Kumar (supra)**, relied upon by the Petitioners, wherein it has been held that if the identity of the candidate is established beyond doubt, then the candidature of the person should not be rejected merely on incorrect description, etc. The relevant portion of the said judgment is set below:

"9. Having heard Ld. Counsels and perused the record, we are of the considered view that the conduct of the Returning Officer in rejecting the petitioner's nomination on the aforesaid ground is completely specious and frivolous. The nomination form filed by the petitioner and the Proposer Mr. L.N. Dhawan leaves no manner of doubt that the proposer had proposed the name of the petitioner, and no other member. We inquired from Mr. Gupta whether there is any other member called by the name of Adesh Kumar in the Nav Nirman Cooperative Group Housing Society. He is not



m a position to state that there is any other member with the same name.

10. Pertinently, that is not the reason recorded by the Returning Officer for rejecting the nomination of the petitioner. Secondly, it is clear from the proforma filed in by the petitioner that he had clearly put his name and membership number correctly. Therefore, even if there was any scope for any doubt upon the reading of the form filed by the proposer - L.N. Dhawan, that would have got extinguished upon reading of the form filed by the candidate himself i.e. the petitioner.

*11. It is clear that the Returning Officer has failed to follow the Delhi Cooperative Societies Rules Schedule II, which lays down the procedure for the conduct of the elections of the committee. **The said procedure provides in Rule 6 that the nomination of the candidate should not be rejected merely on the ground of incorrect description of his name, or the name of his proposer or seconder, or any other particulars relating to the candidate, or his proposer or seconder, as entered in the list of members referred to in Clause 3, "if the identity of the candidate, proposer or seconder, as the case may be, is established beyond reasonable doubt."***

12. In the present case, the Returning Officer has sought to raise a doubt when none existed. It is clear as daylight that the said nomination was that of the petitioner, and none else."

10. Following the above judgment and having perused both the original nomination forms, this Court is of the opinion that the impugned letter rejecting the nomination forms of the Petitioner cannot be sustained, since the candidature and identity of both the Petitioners is well-established and there is no doubt as to their membership or any other detail given in the nomination



form.

11. Accordingly, the impugned letter to the extent the Respondent No. 2 - Returning Officer has rejected the nominations of the Petitioners is quashed and set aside.

12. Both the Petitioners - Mr. Adesh Kumar and Mr. Prashant Gupta, are permitted to contest the election which is scheduled on 25th May, 2025 for the post of 'MC member'.

13. Let the present order be communicated to the Mr. M. K. Gupta, Returning Officer (Mob. No. 9711447998) for necessary information and compliance.

14. Mr. Sameer Vashisht, Id. Standing Counsel, GNCTD has assured the Court that he would inform the Returning Officer of the present order accordingly.

15. The present petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

16. Order *dasti*.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 22, 2025/da/msh