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

Date of decision: 13th August 2025

+ **W.P.(C) 12224/2025 & CM APPL. 49812/2025**

VIJAY MOHAN AND ORS.

.....Petitioners

Through: Mr. Gautam Narayan, Senior Advocate along with Mr. Raghvendra Pratap Singh, Advocates.

versus

REGISTRAR COOPERATIVE SOCIETIES AND ORS.

.....Respondents

Through: Ms. Urvi Mohan, Advocate for R-1 & R-2.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. By consent, the Writ Petition is taken up for final dismissal at admission stage.
2. *Ms. Urvi Mohan, Advocate*, appears for respondent nos.1 & 2. Notice to respondent nos.3 & 4 is dispensed with, in view of the nature of order that we intend to pass.
3. Prayer made in the petition is against the order dated 7th July 2025 (*'impugned order'*), issued by respondent no.1, whereby respondent no.4 was appointed as an Administrator and Returning Officer. The challenge in the petition is only to the extent of appointment of respondent no.4 as an Administrator, and there is no challenge to the appointment of respondent



no.4 as a Returning Officer.

4. It appears that the elections of respondent no.3/Society were held three years ago, and their term was to expire on 22nd May 2025. In view of the mandate provided under *Clause 1 of Schedule II* framed under *Rule 53* of the *Delhi Co-operative Societies Rules, 2007* (***Rules of 2007***), a request is made by the Managing Committee addressed to the Registrar of Co-operative Societies (***RCS***) on 18th March 2025, for appointment of Returning Officer to conduct the election of the Managing Committee.

5. Pursuant thereto, the respondent/RCS appointed *Shri S.H. Krishnan* as the Returning Officer on 24th April 2025. The said Returning Officer, after some time, resigned, which led to appointment of second Returning Officer on 3rd June 2025, who was also given charge of post of Administrator. The second Returning Officer also resigned as a consequence of which, another Returning Officer and Administrator came to be appointed *vide* impugned order.

6. It is the contention of Senior Counsel for petitioner that the statutory obligation under Section 35 of The Delhi Co-operative Societies Act, 2003 (***DCS Act, 2003***), Rule 53 and Schedule II of Rules of 2007, was duly discharged by petitioner by intimating respondent/RCS regarding holding of the elections by appointing Returning Officer. As such, it is urged that there is no default on the part of petitioner in the matter of seeking indulgence of respondent/RCS for conduct of the elections of the Managing Committee by appointing Returning Officer within the time schedule prescribed in Clause 1 of Schedule II of the Rules of 2007.

7. According to him, blame for resignation by Returning Officer-cum-Administrator cannot be passed on to petitioner, as the petitioner cannot be



said to be responsible for giving rise to a situation for resignation of the Returning Officer or that of Administrator.

8. In such an eventuality, the contention is that petitioner cannot be made to suffer by the appointment of Administrator; however, they are willing to go ahead with the conduct of the election pursuant to appointment of Returning Officer on 7th July 2025.

9. An assurance is given that all the possible cooperation shall be extended to the Returning Officer in the matter of conducting elections.

10. Finally, a submission is made by Senior Counsel for petitioner that the issue is squarely covered by the Judgment of Division Bench of this Court in the matter of *Jamia Cooperative Bank Ltd vs. Government of NCT of Delhi & Anr.* in *W.P.(C) 12817/2019*, decided on 5th December 2019.

11. As against above, learned counsel appearing for respondent nos.1 & 2 would strenuously oppose the prayer as, according to her, RCS has acted in exercise of powers under Section 35 of DCS Act, 2003 and, therefore, the consequences of the expiry of tenure of the elected Managing Committee must follow. According to her, timely steps were taken by RCS in appointing Returning Officer, the second Returning Officer-cum-Administrator and after the resignation of second, the third Returning Officer-cum-Administrator.

12. Learned counsel appearing for respondent nos.1 & 2 claims that once the tenure of the Managing Committee has expired, under the statute, it is an obligation on the part of respondent/RCS to appoint an Administrator and also to conduct the elections by appointing Returning Officer. She further contends that Returning Officer can also act as Administrator in dual capacity, provided that they satisfy the requisite conditions prescribed under



the statute, which, in this case, according to her, is not objected.

13. It is further claimed that situation which has arisen and is canvassed in the present petition, the blame cannot be passed on to the RCS. It is the RCS that has acted not only in the best interest of the members of the Society but also with an intention to achieve the object of the DCS Act, 2003.

14. We have considered the rival submissions.

15. The relevant provisions which will be attracted to decide the issue are Section 35 of the DCS Act, 2003, Rule 53 of the Rules of 2007 and Schedule II referred thereunder. For ease of reference, relevant provisions are extracted as under:

Section 35 of the DCS Act, 2003:

“35. Election and nomination of members of committee.— (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of elections of the members of the committee of, a co-operative society shall be vested in the committee which shall appoint returning officer who shall not be a member or an employee of the society:

Provided that on the request of the committee or one-sixth members of the society, and in case of dispute in a society, the Registrar may appoint the returning officer to conduct the election of a society.

Provided further that the Government shall appoint returning officer, not below the rank of a Gazetted Officer or a retired Gazetted Officer to conduct the election of a co-operative bank, financial bank, federal co-operative society and such housing society as has been allotted land and draw of lots has not been conducted in accordance with the provisions of Section 77 and such housing society as is awaiting allotment of land.



(4) All co-operative societies shall hold election at the commencement of this Act on the date fixed for holding annual general body meeting as provided in Section 31 and on failure to conduct election as aforesaid, the committee shall cease to hold office and its affairs shall be managed by a person (hereinafter referred to as “administrator”) appointed by the Registrar who shall also hold election within ninety days of his appointment.

(5) Thereafter the committee shall arrange election of the new committee before the expiry of its term and in case the committee fails to do so, the committee shall cease to hold office on the expiry of its term and the affairs of the co-operative society shall be managed by an administrator appointed by the Registrar who shall also hold election within ninety days from the date of his appointment.”

Rule 53 of DCS Rules of 2007:

“53. Election of committee. Notwithstanding anything contained in these rules or the bye-laws, election of members of the committee of a co-operative society shall be conducted in the manner given in Schedule II.”

Schedule II of DCS Rules of 2007:

“SCHEDULE II: PROCEDURE FOR THE CONDUCT OF ELECTION OF THE COMMITTEE

(i) The Committee or Board of a co-operative society shall meet at least sixty clear days in advance of the date of expiration of its term and by resolution determine the date, time and place for convening a general body meeting for conduct of election of its successor Committee.

(ii) The Committee or Board of co-operative Bank, federal cooperative society or such co-operative housing society who has been allotted land and draw of lots has not been conducted in accordance with the



provisions of section 77 and such housing societies as is awaiting allotment of land, shall submit a copy of such 'Resolution' to the Registrar, alongwith a request for appointment of Returning Officer for conducting the 'Election' of the Committee by Registered Post or through personal delivery under acknowledgement. These provisions shall also apply, mutatis mutandis, to such co-operative society as are under the charge of administrator appointed under section 37. After receipt of the resolution, the Registrar shall communicate to the co-operative society, the name of the Returning Officer appointed under section 35 of the Act and also the remuneration to be paid to him by the co-operative society."

(emphasis added)

16. The admitted facts borne out of the record are that a request was made by petitioner pursuant to Clause 1 of Schedule II of the *Delhi Co-operative Societies Rules* for timely appointment of the Returning Officer on 24th April 2025.

17. It appears that the Returning Officer, for reasons unknown to him, has resigned, and the second Returning Officer again resigned from the post.

18. As rightly claimed by respondent, for appointment and the resignation of Returning Officer, the blame cannot be passed on to RCS. Rightly so, RCS appointed the Returning Officer for the third time on 7th July 2025, and such decision of the respondent/RCS is not even objected to by petitioner.

19. The only issue which warrants consideration is regarding the appointment of Administrator.

20. If we consider the object with which the *Delhi Co-operative Societies Act, 2003* was enacted, the very preamble speaks of the following observations:



“The provisions of the Bill aim at consolidating and amending the law relating to co-operative societies with the sole objective of facilitating promotion, growth and development of different types of co-operative societies for economic betterment of the members of the co-operative societies in particular and the society as a whole in general, with an avowed objective of integrated development of all sectors to improve quality of life of citizens of Delhi through co-operative initiatives. Efforts have been made to ensure democratic management, transparency and accountability in the affairs of the co-operative societies by curtailing red-tapism in administration so as to make the co-operative movement a vibrant instrument of socio-economic growth in Delhi.”

21. The very basis for promoting the cooperative movement can be sourced from the Directive Principles of State Policy.
22. The object with which a cooperative movement is to be promoted is to have an organisation wherein persons voluntarily associate together as human beings, based on the principle of equality, and work together for a common object.
23. Cooperation can be termed as a voluntary association of persons for carrying out business based on the principle of equality, and with the object of satisfying common need. It is also based on the application of principle of ‘unity is strength’ to economic life and, in turn, it provides for following the principle of ‘each shall work for all, and all shall work for each’. It repudiates the principle of the survival of the fittest and is based on the combination of business and the spirit of service. It adopts the principle of ‘spirit of association’, ‘self-reliance’ and ‘harmony’ towards the economic betterment and upward striving for better standard of living.



24. It is always aimed at orderly development of the cooperative movement in the State.

25. Among the principles followed in a cooperative movement is democratic member control. Cooperative societies are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions. Irrespective of gender bias, the elected representatives are accountable to the members.

26. In this background, of aforesaid principle of the *cooperation*, if we consider scheme of sub-section 5 of Section 35, it provides for the cessation of the Managing Committee to hold an office upon expiry of its term, in case the Committee fails to arrange the election of the new Committee before the expiry of its term. The effect of such cessation is that the elected committee is removed from controlling the affairs of the cooperative society, and the administration of the society is vested with the administrator, who has a bureaucratic colour. Such an administrator, though, is required to conduct himself based on the very Bye-laws of the society and statutory provisions, but is equally required to be sensitive to the principles of cooperation. To be more precise, we must mention here that an administrator, while controlling or administering cooperative society, acts as an individual and not as a group of members of the society.

27. In such an eventuality, the fact remains that the sub-section 5 of Section 35 is attracted only in case where there is a failure on the part of the managing committee to arrange for election of the new committee before the expiry of its term.

28. If we consider the object stated hereinabove, the fact remains that the statute came to be enacted for the betterment and organisational conduct of



the members and to promote the cooperative movement. Section 35 of the DCS Act, if perused, does contemplate the appointment of an Administrator, provided the Society has failed to take steps within the stipulated period, as prescribed under the statute.

29. In the case at hand, neither petitioner could be blamed for not taking timely steps, nor the RCS, as he has immediately acted in the matter of appointment of the Returning Officer. However, the only reason which gave rise to the appointment of Administrator is the expiry of the statutory period of three years prescribed in the statute.

30. The fact remains that even if the period of three years has expired, that by itself, in the given situation, cannot be said to be sufficient for the RCS to exercise the power of appointment of Administrator under Sub-section (5) of Section 35 of DCS Act, particularly when the very object with which the statute is enacted is to promote the cooperative movement through participation of the members in administration of the Management of the Society.

31. The fact remains that the very initiation of the proceedings by the Managing Committee of the respondent-Cooperative Society for arranging its election can be borne out of the record. In such an eventuality, it cannot be said that there is a failure on the part of the Managing Committee to adhere to the mandate provided under sub-section 5 of Section 35 of the Act. Consequently, it cannot be said that petitioners, as a member of the Managing Committee of the respondent-Cooperative Society, have failed to act pursuant to the mandate provided under sub-section 5 of Section 35 of the Act, and had made themselves liable for having ceased to hold the office on account of expiry of their term and for not arranging the election of the



Managing Committee.

32. Rightly so, on similar lines, the Division Bench of this Court had an occasion to consider the issue in the matter of **Jamia Cooperative Bank Ltd.** (*supra*), wherein the Division Bench of this Court in *paragraph nos. 19 & 20* made following observations:

“19. Consequently, the impugned order, to the extent that it appoints Mr. Krishnan not just as an RO to conduct the elections to the new committee, but also as an Administrator of the Petitioner society is bad in law and that part of the impugned order appointing him as Administrator is accordingly set aside. He will, of course, continue as the RO for the purpose of conduct of elections to the Managing Committee/Board of Directors of the Petitioner.

20. The next question that arises is what should happen in the interregnum i.e. after the expiry of the term of the earlier Managing Committee and the election of the new one in terms of the election schedule to be drawn up by Mr. Krishnan as an RO of the Petitioner society? Although there is no clear cut answer either in the DCS Act or the Rules in Delhi, the course that commends itself to be adopted in the present case would be to require the present committee to continue as a “caretaker committee”, till such time the new committee is in place, with the added condition that the present committee shall not take any major policy decision or transfer/utilise any funds of the committee, except to the extent necessary for the for the day-today administration, including payment of salaries of the staff and other normal banking activity. The copies of the decisions taken by the committee will be open for inspection by the Registrar. Mr. Krishnan, the RO will go strictly by the time limit specified in the Act and the Rules therewith, and draw up a schedule for the elections.”

(emphasis added)



33. As such, in our opinion, respondent/RCS can be said to have exercised powers in excess of those conferred, in the given factual matrix of the case.

34. That being so, the impugned order to the extent of appointing Administrator is hereby quashed and set aside. However, it is made clear that the order dated 7th July 2025 is sustained to the extent of the appointment of the Returning Officer.

35. We hereby clarify that Returning Officer shall take every step in concluding the elections of the respondent no.3/Society within the time schedule as prescribed by the *Registrar of Co-operative Societies*.

36. Needless to clarify, it shall be the elected *Managing Committee* who shall continue to exercise the powers until the elections are concluded. However, we make it clear that no major policy or financial decision shall be taken until the elections are concluded.

37. The petition stands allowed and disposed of in the above terms. Pending applications, are rendered infructuous.

38. Order be uploaded on the website of this Court.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

AUGUST 13, 2025/ak/bp/ab