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

Date of decision: 20th March, 2026

Uploaded on: 27th March, 2026

+ **W.P.(C) 927/2018 & CM APPL. 20459/2018**

ANAND NIKETAN COOPERATIVE HOUSING SOCIETY LTD.

.....Petitioner

Through: Mr. Rajshekhar Rao, Sr. Adv. with Ms. Anjali Chauhan, Mr. Ajay Sabharwal, Mr. Aryan Shah, Ms. Madhupreet Nanda and Ms. Sapna Rai, Advs.

versus

ASSTT. REGISTRAR (H/SEC-I) AND ORS.

.....Respondents

Through: Ms. Vaishali Gupta, Panel Counsel (Civil) GNCTD, Mr. Kartik Sharma, Adv. for R1
Mr. S.C. Singhal and Mr. Parth Mahajan, Advs. for R3 & R4
Mr. Prashant Mehra, Adv. for R5

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+ **W.P.(C) 7396/2021, CM APPL. 23310/2021 & CM APPL. 54321/2025**

SHRI NAR SINGH AWATAR & ORS.

.....Petitioners

Through: Mr. S.C. Singhal and Mr. Parth Mahajan, Advs. with Petitioner no. 3 in person.

versus

THE REGISTRAR OF CO-OPERATIVE SOCIETIES & ORS.

.....Respondents

Through: Ms. Vaishali Gupta, Panel Counsel (Civil) GNCTD, Mr. Kartik Sharma, Adv. for R1
Mr. Prashant Mehra, Adv.



CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. These are cross-petitions filed by the Society-Anand Niketan Cooperative Housing Society Ltd. (hereinafter, '*Society*') and Resident-Members of the Society namely, Mr. Nar Singh Awatar, Mr. Prem Nath Nag and Mr. W.S. Chona under Article 226 of the Constitution of India.
3. ***W.P.(C) 927/2018*** has been filed by the Society, *inter alia*, seeking to quash the order dated 30th October, 2017 passed by the Assistant Registrar of Cooperative Societies. *Vide* the impugned order, the Assistant Registrar had approved the appointment of an inquiry officer for inquiring various complaints raised by the Society's residents against the Managing Committee including complaints regarding the provision of 'Watch and Ward' services.
4. ***W.P.(C) 7396/2021*** has been filed by Mr. Nar Singh Awatar, Mr. Prem Nath Nag and Mr. WS Chona *inter alia* seeking directions to wind up the Society's Managing Committee and re-conduct the Committee elections on various grounds raised in the above said complaints.
5. The brief background of ***W.P.(C) 927/2018*** is that on 10th August 1956, the Society was registered under the Bombay Co-operative Societies Act, 1925, as applicable to Delhi at the relevant point in time. Since 1993, the Society, in its various Annual General Meetings (hereinafter, '*AGM*'), has deliberated upon the modalities for mobilizing resources for the provision of 'Watch and Ward' services to its members, as well as determining the charges



payable by the members for such services. On 11th April, 2016, Special Registrar, Registrar Cooperative Societies (hereinafter, 'RCS') issued a Show Cause Notice to the Managing Committee of the Society for conducting an inspection, on the basis of a complaint by Mr. Nar Singh Awartar, Mr. Prem Nath Nag and Mr. WS Chona alleging that there is gross violation in the accounts of the Society. Thereafter, on 10th October, 2016, the Assistant Registrar appointed an Inquiry Officer to conduct an inspection and submit a report. The Petitioner Society challenged the Show Cause Notice dated 11th April, 2016 and the order dated 10th October, 2016 in **W.P. (C) 11665/2016** titled '**Anand Niketan Cooperative Housing Society Ltd. v. Asstt Registrar & Anr.**' wherein this Court *vide* order dated 8th February, 2017 directed as under:

"Mr. Anip Sachthey, learned counsel for the petitioner, states that Mr. S.S. Yadav has been appointed as the Financial Commissioner and in view of the said position, he would withdraw the present writ petition and approach the Financial Commissioner by way of a revision petition.

In case revision petition is filed within two weeks from today, the same would not be dismissed on the ground of limitation. All contentions and issues are left open and the court has not made any observations on merits. The writ petition is disposed of. CM Nos.45921/2016, 46305/2016 are also disposed of"

6. Thereafter, the Petitioner Society preferred a revision application, being **Case No. 46/2017**, before the Financial Commissioner. The said revision application was finally heard on 8th December, 2017. However, the order purportedly passed therein has not been placed on record by the Petitioner Society. This aspect has also been specifically raised by the



Respondents in their counter affidavit. In response thereto, the Petitioner Society, in its rejoinder dated 18th November, 2019, has averred that no order has been passed by the Financial Commissioner, and consequently, the present petition came to be filed. The relevant extract of the said rejoinder is reproduced hereinbelow:

“Contents of preliminary objections to the extent of filing of revision petition No.46/2017 are matter of records. However, rest of the contents are misconceived and not correctly stated, and hence denied. It is submitted that the said revision petition was filed before Financial Commissioner, Delhi in pursuance to the order dt.08.02.2017 passed by this Hon’ble Court in WP (c) No.11655/2016, as mentioned in para 45(Pg. 324) of the writ petition, against order dt.10.10.2016 of the Asst. Registrar(Pg. Nos. 145- 149).

It is submitted that despite having reserved the said matter for passing order on 08.12.2017, the Financial Commissioner has not so far passed any order on the said petition and in the meantime, the respondents and inquiry officer, taking undue advantage of the said stalemate, hurriedly gave their one-sided reports based only on the submissions of the complainants and without deciding the preliminary objections of the petitioner and without giving any reasonable opportunity to the petitioner to give its reply on merits. It is submitted that only writ petition is maintainable against the inspection/inquiry reports of the Registrar Cooperative Society.

It is submitted that revision u/s 116 of RCS Act, 2003 is not maintainable against enquiry report. In any case, the said remedy is not efficacious as is evident from the fact that no order has so far been passed by the Financial Commissioner on the said revision petition inspite of reserving orders for almost 2 years. It is denied that the petition is premature or



premeditated as alleged to circumvent the due legal process. On the contrary, Respondents have taken unfair and undue advantage of the pendency of the petition before the Financial Commissioner and in haste gave their false and frivolous reports without following the due process.”

7. Meanwhile, on 23rd February, 2017, the Society received summons from the Inquiry Officer alleging non-compliance with directions to respond to the four complaints filed before it and had fixed a date of hearing. Thereafter, on 28th February, 2017, the Society submitted that no such directions had been issued and that the said complaints were beyond the scope of the order dated 10th October, 2016. The Society had also submitted a reply dated 15th March, 2017 to the Inquiry Officer.

8. On 10th July, 2017, the Society is stated to have received an incomplete copy of a report from the Inquiry Officer. The Society raised this issue of the incomplete report before the concerned authorities. However, on 30th October, 2017 the Assistant Registrar appointed a new Inquiry officer to conduct an inquiry on the issues of the complaints relating to Security *i.e.*, ‘Watch and Wards’ Services, Society and Club Accounts, discriminating Flat/Floor owners, granting of membership of club to members and non-members and violation of Bye-laws of the Society. The said order dated 30th October, 2017 appointing the Inquiry Officer is under challenge in the present petition. The Petitioner has further challenged the Show Cause Notice dated 11th April, 2016 in the present petition.

9. The brief background of **W.P.(C) 7396/2021** is that the Petitioners herein had filed various complaints against the Society alleging that the AGM for the Financial Year 2018-19 was not conducted by the Society in



accordance with law and further the Society did not get the accounts audited in the prescribed manner. *Vide* complaint dated 20th October, 2019, the Petitioners sought appointment of administrator and holding fresh Elections of the Managing Committee of the Society. The Petitioners further filed a complaint on 22nd June, 2020 against the empanelled auditors of the Society namely, M/s. H.K. Choudhary & Company for malpractices and negligence. It is the case of the Petitioners herein that no action has been taken by the authorities on the complaints preferred by the Petitioners. Hence, the present petition.

10. Heard the Id. Counsels for the parties and Mr. Chona who is present in Court. The colony in question *i.e.*, Anand Niketan has two bodies broadly attending to the needs of its members and second is the Residents Welfare Association. The Society was registered in the year 1956. The said Society is run by the Managing Committee, which is elected under the Delhi Co-operative Societies Act, 2003. The Society provides various services for its members including the 'Watch and Ward' services on payment of monthly/annual subscription.

11. According to the Society, its Bye-laws permit collection of funds for 'Watch and Ward' services and also permit to undertake welfare activities for the members and their families. The relevant Bye-laws of the Society read as under:

“3(iv). To undertake welfare activities for members and their families.

xxxx

10(e). Other Funds such as Watch and Ward and any such fund to meet the objects of the Society and any other project funds for the benefit of the residents.”



12. According to the Society, the AGM held way back on 30th May, 1993 permitted the resources for providing security gates at the entry and exit of the Society. The 'Watch and Ward' services are also stated to have been discussed in the AGM dated 26th November, 1995. The reason for not calling the tender was also considered in the said AGM as also in further AGMs dated 23rd February, 1997 and 12th September, 1999. The purpose of the 'Watch and Ward' services was to reduce the crime in the colony and to have proper security measures for safety and security of the residents. The Society is also stated to have sought clarification from the RCS, which had clarified *vide* letter dated 7th December, 2000 as under:

“With reference to your letter No.ANCHSL/RCS/38 dt. 29.09.2000 on the above cited above, it is clarified that if the society is maintaining the dues, of watch and ward, then the amount so charged in lieu of that are society's dues.

Further the member who is having independent share certificate as co-sharer has a right to vote in the society. In this connection, there is a specific provision of joint membership as per provisions of DCS Act, 1972. In order to avoid any complication, the first member has a right to vote

The defaulters' list is required to be prepared 45 days before the date of General Body meeting, fixed for the election in accordance with the provisions of schedule-II Rule 58 of the DCS Rules, 1973”

13. The charges to be paid for the purpose of security and 'Watch and Ward' services were also discussed in various AGMs of the Society and it was resolved that even the tenants would have to pay charges for the 'Watch and Ward' services as part of lease agreement and even those persons, who had purchased the floors *i.e.*, builder flats, would also be liable to pay.



14. The fee for 'Watch and Ward' services has also been increased from time to time in AGMs dated 17th February, 2008 and 13th March, 2011. One of the members namely Reoti Saran Sharma, who had to pay certain dues and against whom the demand was raised, is stated to have filed the complaint in respect of which the RCS took a position that the said member was not a defaulter. However, the Delhi Co-operative Tribunal in another matter had held that non-payment for 'Watch and Ward' services would lead to members being declared as defaulters.

15. It is the case of the Society that the 'Watch and Ward' services constitute dues of the Society and in this background, the Show Cause Notice dated 11th April, 2016 was issued under Section 61 of the Delhi Co-operative Societies Act, 2003. Various documents were submitted by the Society in response to the Show Cause Notice along with a reply. An Inquiry Officer was appointed by the RCS to conduct inspection with regard to the 'Watch and Ward' services charges. Various allegations were made against the Society and an inquiry was ordered dated 10th October, 2016. The same was challenged in ***W.P.(C) 1165/2016*** in which the order extracted above was passed.

16. The case of the Society is that the complainants were misleading the Inquiry Officer. The report was submitted on 10th July, 2017 by the Inquiry Officer. According to the Society, it never received the copy of the said report. Thereafter, on 30th September, 2017, the Assistant Registrar, RCS appointed another Inquiry Officer to go into security of the Society, club accounts and various other allegations against the Society. Hence, this petition was filed challenging the impugned order dated 30th October, 2017 pursuant to the Show Cause Notice dated 11th April, 2016.



17. The stand of the RCS is that the revision application before the Financial Commissioner was heard on 8th December, 2017 and the final order in the same is awaited. According to the RCS, the initial inspection order was dated 10th October, 2016 related to the complaint relating to the 'Watch and Ward' services. However, the scope of the same was expanded on 18th November, 2016, which then resulted in an inquiry report dated 10th July, 2017.

18. The case of the RCS is that the present petitions are pre-mature and the writ petitions are an abuse of process of law as the Petitioner ought to have availed remedies under Section 112 of the Delhi Co-operative Societies Act, 2003.

19. The Resident Welfare Association namely, Anand Niketan Residents Welfare Association (ANRWA) has also filed Minutes of the meeting held on 11th May, 2025 wherein it has set out the entire history of 'Watch and Ward' services in Anand Niketan area. The crux of the said Minutes is that the RWA fund is grossly inadequate to take care of 'Watch and Ward' services.

20. After having considered this matter, it is clear to the Court that in respect of 'Watch and Ward' services, the Resident Welfare Association (hereinafter, 'RWA') on the one hand is stating that it does not have adequate funds or resources and that the Society is actually taking care of the 'Watch and Ward' services with contribution from the limited number of members that it has.

21. Under such circumstances, it may be impractical to direct the RWA to take over the 'Watch and Ward' Services since it has already passed a resolution to the effect that the Society ought to take care of the same. The relevant portion of the said resolution dated 20th May, 2025 reads as under:-



“It is Resolved that Anand Niketan Residents' Welfare Association is able to carry out its core Objectives & Activities which include Social & Cultural activities on voluntary contributions by the residents, coordinating with Civic Agencies, Utility Services Providers, addressing the grievances of the Residents. However, it is not in a position to take up the responsibility of handling the Security System of Anand Niketan Colony due to lack of infrastructure, insufficient funds & lack of power to enforce recovery of Security Dues.

It is further resolved that since Anand Niketan Co-operative House Building Society has got all the permissions from law enforcing and other statutory authorities for managing the Security System and is doing an excellent job in managing the Security System of Anand Nikeian Colony since the time it was requested to take over in 1993, it be requested to continue doing the same on a permanent basis.”

22. In view of the above, it appears that the impugned order wherein the ANRWA has been directed to take over the ‘Watch and Ward’ Services would not be practically implementable. Moreover, the impugned order dated 30th October, 2017 by which an inquiry has been directed in respect of ‘Watch and Ward’ Services etc. can create impediments in the functioning of the Society.

23. In the opinion of this Court, the Society and the RWA have to work together, in view of the change in the composition of the residents of the area which consists of original members and now of floor owners *i.e.*, owners of each floor, as well. There are tenants also who avail of such security services. Accordingly, the manner in which the Society is taking care of the ‘Watch and Ward’ services is also acceptable to the ANRWA. Thus, just because of complaints of few members the entire arrangement cannot be disturbed as it



would cause serious prejudice to the residents of the colony as well. The directions for inquiry are accordingly set aside.

24. The Society and the RWA shall continue to work in a collaborative and co-operative manner in the interest of the society and the residents. The role of the RWA is stated to be primarily in respect of organising cultural activities. On the other hand, the clubhouse and related facilities are managed and maintained by the Society. Accordingly, in view of the fact that RWA has taken a position that it is unable to manage the 'Watch and Ward' services, the Society can continue to do so.

25. However, the RCS shall, continue to monitor the Audit Reports of the Society and supervise the functioning of the Society in accordance with law. The recommendations given by the inquiry officer are also accordingly set aside.

26. Insofar as the recommendation in respect of having independent Auditors is concerned, the Society shall ensure that the Auditors are independent in terms of the Delhi Cooperative Societies Rules, 2007.

27. It is also directed that no action shall be taken by the Registrar Cooperative Societies in terms of the inquiry report issued pursuant to the impugned order dated 30th October, 2017.

28. Mr. W.S. Chona, who is present in Court, has also been heard by the Court. Considering the assistance and service which has been rendered by Mr. W.S. Chona to the Society and in bringing the various issues into the fold, the RWA shall extend all its services to Mr. Chona and reinstate his membership as a full member without any further payments subject to him maintaining peace and harmony within the RWA, the Society and the Colony. No further orders are called for.



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29. These petitions are disposed of in the above terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

MARCH 20, 2026/ys/ck