

IN THE COURT OF THE FINANCIAL COMMISSIONER,
DELHI

Case No.20/2012

**Revision Petition under
section 116 of Delhi
Cooperative Societies Act,
2003**

In the matter of :-

**1. Delhi EPDP CGHS Ltd.
Plot No. 19, Sector-4
Dwarka, New Delhi-110078.Petitioner**

VERSUS

**1. Joint Registrar (Arbitration)
Office of the Registrar of Cooperative
Societies, Govt. of NCT of Delhi,
Old Court Building, Parliament Street,
New Delhi.**

**2. Mr. Bimal Kumar Jana
Flat No.504, 'Dakshinayan'
Delhi EPDP CGHS Ltd.
Plot No.19, Sector-4
Dwarka, New Delhi-110078. Respondents**

(Represented by Shri M. Qayamuddin, Counsel for the Petitioner and Sh. B.K. Jana, R-2 in person)

NAINI JAYASEELAN, FINANCIAL COMMISSIONER

Order dated 07.08.2015

1. This order shall dispose of the Revision Petition filed by the Petitioner Society under Section 116 of the Delhi Cooperative Societies Act, 2003 against the order dated 07.09.2011 passed by the Joint Registrar (Arb), office of the Registrar of Coop Societies, Govt. of NCT of Delhi. Vide order dated 07.09.2011 Joint Registrar disposed of the review petition filed by the Society and held that "*I do not find any justification for reviewing the order dated 03.11.2010 passed by the Jt. Registrar in Arb.case No.1182/JR/ARB/2010-11/1790*".

2. Vide order dated 03.11.2010 u/s 7 of DCS Act, 2003, Jt. Registrar referred the claim petition, filed by the Sh. B. K. Jana for adjudication to the arbitrator under section 71 of DCS Act, 2003 on the following point in the prayer made by the claimant :-

- (i) To declare that the Special General Meeting held on 27.06.2010 is illegal, invalid, null and void and stand dissolved.
- (ii) All the predetermined decisions and resolutions taken in the Special General Body Meeting should be treated as illegal and null and void.
- (iii) The Society may please be instructed not to deviate from the stipulated provisions of sub-rule (4) of Rule-60.
- (iv) All the decision of the Managing Committee violating sub-rule (4) of Rule 60 shall be treated as null and void as per the requirement of sub-Rule (4) of Rule-60 and it shall be considered as no meeting held.

3. After the order dated 07.09.2011, matter was forwarded to the Arbitrator vide letter dated 15.09.2011.

4. Petitioner Society filed a revision petition u/s 116 of DCS Act, 2003 against the order dated 07.09.2011 passed by the Jt. Registrar (Arb.), before this Court on 28.09.2011 through the case bearing No.380/2011. This Court vide order dated 10.01.2012 dismissed the revision petition. Petitioner filed an application for restoration in case bearing no. 20/2012 and the restoration was allowed.

5. During the proceedings on 16.07.2015, Counsel for the petitioner Society submitted clarification regarding his claim that typed; minutes are equivalent to hand written minutes. In support of his claim, he referred the Rule 2(2)(c) of DCS Rules, 2007 which reads as "expressions referring to writing include printing, typing, lithography, photography and other methods of

representing or reproducing the word in visible form". Therefore, typed minutes are equivalent to handwritten minutes. Sh. B. K. Jana, R-2 referred the rule 60(4) of DCS Rules, 2007 and submitted that minutes can only be handwritten, otherwise null and void.

6. I have considered the clarification given by the Counsel of Society regarding the claim that typed minutes are equivalent to handwritten minutes. Referring the Rule 2(2)(c) of DCS Rules, 2007 and stating that typed minutes are equivalent to handwritten minutes by the petitioner counsel, is a misleading statement. Rule 2(2) of DCS Rules, 2007 states as under:-

2(2) unless otherwise specified in the rules and the bye laws of a Co-operative Societies.

- (a) words importing the masculine gender include the feminine gender;
- (b) words in singular include their plural and vice versa;
- (c) expressions referring to writing include printing, typing, lithography, photography and other methods of representing or reproducing words in a visible form;
- (d) with reference to a person who is unable to sign his name, the word "signature" shall include his "Thumb-impression" or other mark duly attested to signify his signature; and
- (e) when any rule or any bye-laws of a co-operative society requires the determination of one half, one third or other fraction of a number and that number is not evenly divisible by two, three or such other figures as may be required, the number next below, which is evenly divisible by two, three or such other figure shall be taken for the original number.

In view of above, Rule 2(2)(c) should be read in entirety. Rule 2(2) clearly states that "unless otherwise specified in the

rules and by-laws of a Co-operative Society" only after that clause 'c' can be read. Whereas Rule 60(4) of the DCS Rules, 2007 clearly specify that minutes of meeting must be handwritten. Therefore, due to Rule 60 (4) of DCS Rule, 2007, Rule 2(2)(c) can not justify that the typed minutes are equivalent to hand written. Counsel for petitioner skip the Rule 2(2) and reads only clause 'c' of Rule 2(2) to justify his claim that typed minutes are equivalent to hand written, which is not tenable.

7. Petitioner Society has filed the petition u/s 116 of DCS Act, 2003 against the order dated 03.11.2010 u/s 70 of DCS Act, 2003 which covers under Section 112 (1) (i) of DCS Act, 2003 and as per section 112 (2) (a) appeal lies before the Tribunal not the revision u/s 116 before this Court. Therefore, appeal is dismissed due to lack of jurisdiction.

8. Pronounced in the open Court on 07.08.2015.

(NAINI JAYASEELAN)
Financial Commissioner, Delhi