

**Case No. 204/2004**  
**Sh. Sudhir Kumar Jain Vs. RCS & Ors.**

22.09.2015

Present : Shri Ankur Arora, Counsel for the Petitioner.  
: Shri Mukesh Kumar, LDC for R-1, RCS.

1. Counsel for Petitioner states the impugned order dated 17.05.2004 disqualified the petitioner on the ground that he was the owner of a commercial property in Shastri Park which is an unauthorised colony. Also he states that the MCD notice as well as the assessment clearly states that half property is used for residential and half is being for commercial. If at all calculation is 66.72 sq. mt. is to be made as per Rule 25 (1)(c)(i) of the DCS Rules, 1973, it can be made only for the residential portion and not for the commercial portion.
2. Since the RCS has taken the entire property for calculation under Rule 25 (1)(c)(i) of the DCS Rules, 1973, the RCS order is set aside and the case is remanded back to the RCS for deciding the matter afresh keeping in view the two High Court judgements dated 30.05.2011 in the case titled as "Bindya Agarwal Vs. RCS and Anr." and dated 08.02.2012 in the case titled as "Kalu Ram Sharma Vs. Financial Commissioner and Ors." filed by the Counsel for the Petitioner which have been passed after the RCS's order.
3. Case is accordingly disposed of.
4. File be consigned to record room after completion.

**(Naini Jayaseelan)**  
**Financial Commissioner**  
**Delhi**