

**Case No.223/2014**

**Sh. Hemant Bhanot & Anr. Vs. RCS**

27.03.2015

Present : Sh. Vikas Gulati, Counsel alongwith Sh. Dhani Ram,  
Counsel for the Petitioners  
: Sh. Sandeep, Counsel for the applicant.

1. Vide impugned order dated 27.01.2014 Assistant Registrar (BW) conveyed the decision of RCS to appoint Sh. G.K. Marwah, IAS (Retd.) as an inspecting officer to conduct the Inspection within three months of his appointment.

2. This decision was given in response to the request dated 09.09.2013 of the Managing Committee of Shankar CGHS for an inspection under the provisions of Section 61 of DCS Act, 2003 and resolution of the Managing Committee of the society dated 27.08.2013 to hold inspection/enquiry into the allegations of malpractices, irregularities and financial bungling/misappropriation into the funds, accounts and records of the society by Mr. N.P. Verma, Mr. Hemant Bhanot (Ex-President) and others.

3. Sh. Hemant Bhanot and Sh. N.P. Verma has filed the present revision petition under section 116 of DCS Act, 2003 against the said order dated 27.01.2014 on the following grounds:-

(i) The Registrar of Cooperative Societies/Respondents has neither issued any show cause nor afforded any opportunity of being heard to the Petitioners prior to issue of the aforesaid order dated 17.01.2014. The said order is not in conformity with the provisions of Section 61 of the Act.

(ii) That appointment of Sh. G.K. Marwah, a retired IAS Officer of Government of Delhi as “Inspection Officer” by the Registrar of Cooperative Societies to carry out inspection in the affairs of the complaint made by the present office bearers of the society is not in conformity with the provisions of section 61 of the Act and is not sustainable in the eyes of law.

(iii) That as per the provisions of Section 61 of the Act, the power to pass an order under the said section is vested with the Registrar only and not upon the Assistant Registrar, who has passed the order in the instant case.

4. I have heard the petitioner at length and perused the records of the case. It has been observed that as per proviso of Section 61 (1) affording an opportunity to person against whom complaint has been made is required only when a serious complaint is made by “a member” or a “public servant”. However, as per section 61 (11) of DCS Act, 2003 when a request is made by, not less than one third of the members of the committee RCS may undertake inspection of the Society and authorize any person by order in writing in this behalf to

make an inspection into the constitution, working and in financial condition of a cooperative Society. In the present case, request has been made by the Managing Committee of the Society in pursuance of the resolution of the Managing Committee dated 27.08.2013. Therefore when a resolution has been passed, it has the consent of more than 50 % of the members which is sufficient to meet the condition of section 61 (1) for “not less than one third of the members of the Committee”.

5. Under Section 61 (1) of the Act, RCS has the power to authorize “any person” to make an inspection therefore contention of the petitioners that appointment of Sh. G.K. Marwah, IAS (RETD) is not in conformity with provision of section 60 of the Act, is not tenable.

6. Petitioners further contended the Assistant Registrar (NW) has no power to pass an order under section 61 of the DCS Act. Whereas in the present case Asstt. Registrar has conveyed only the directions of RCS. Therefore this contention is also not tenable.

7. Considering the above facts, the revision petition is hereby dismissed *in limine*.

8. The case is disposed of accordingly.

9. File be consigned to record room after completion.

-sd-  
(DHARAM PAL)  
Financial Commissioner, Delhi  
27.03.2015