

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No.224/2013

Appeal under Section 112
the Delhi Cooperative
Societies Act.

In the matter of :-

Shree Sain Bandhu Ekta Coop(u) T/C Society Ltd.

Through its President

Having its office at Shop No.10,

Ground Floor, Main Road,

Johri Pur, Delhi-110094.

... Appellant

Versus

Registrar,

Cooperative Societies,

Govt. of NCT of Delhi,

Having its office at :

Old Court Building, Parliament Street

New Delhi-110011.

... Respondent

DHARAM PAL, FINANCIAL COMMISSIONER

Order dated 13th January, 2015

1. This order shall dispose of the Appeal filed by Appellant against the impugned order dated 10.10.2013 passed by the Assistant Registrar(NE), Delhi in an application filed to review the order dated 21.1.2013 of the Assistant Registrar(NE), Delhi. Vide this order Assistant Registrar(NE) has informed that request of the appellant for registration of thrift and credit society was considered and rejected by the competent authority due to the reason that a large number of societies exist in the said area, hence, there is no justification of fresh registration.

2. Notices were issued to the Registrar, Cooperative Societies vide letters dated 3.1.2014 and 22.7.2014 for filing the reply on the appeal of the appellant. A third notice was also given by my predecessor to Respondent on 6.8.2014 for the compliance of the order dated 1.8.2014 vide which Respondent was directed to file its reply on the next date of hearing failing which the case will be proceeded ex-parte. No reply was submitted by the Respondent. Another opportunity was also given to the office of RCS vide order dated 18.9.2014 but none appeared on behalf of RCS.

3. The Appellant in its appeal has challenged the RCS order dated 10.10.2013 mainly on the following grounds :-

a) That the impugned orders/letters have been issued without considering law, facts and circumstances of the case and are based on surmises and conjectures.

b) That the impugned orders/letters are not sustainable in the eyes of law as the same are illegal and against the principles of natural justice and no justification which could be tenable in the eyes of law has been given in the same.

c) That the ground for rejection i.e. “large number of societies exist in the said area” is totally false, vexatious and against the law as there is no bar under any law as well as DCS Act to register more than one society in the same area. This fact is also apparent from the fact that the ld. RCS have registered more than 10 societies in Yamuna Vihar, 9 societies in Bhajanpura, 6 societies in Maujpur, 5 societies in Ganga Vihar, 7 societies in Ashok Nagar, 4 societies in Ghonda, 3 societies in Meet Nagar, 4 societies in Shahdara. Nos. of existing societies in Johripur are much less as compared to other areas.

d) That the ground of large number of societies is not justifiable as the Ld. RCS office is adopting pick and choose policy in registration of the Thrift and Credit societies as. As per their record there are two societies in the area of Johri Pur which is comprising of more than 15 independent colonies.

e) That the Ld. RCS has failed to appreciate that as per DCS Act, there is no bar in registration of petitioner society if it is eligible for the same.

4. Based on above grounds, petitioner have prayed that letters dated 21.1.2013 & 10.10.2013 be set aside and petitioner society be registered.

5. I have heard the petitioner and have also gone through the relevant rules and procedures and available records on file. The application for registration of cooperative society are received under rule 5 and disposed off as per procedure prescribed under rule 6.

6. In this regard, rule 9 of DCS Rules, 2007 is relevant and same is reproduced below :

“9. Refusal to register

Without prejudice to the generality of the power under sub-section (2) of section 9 of the Act, the Registrar may refuse to register a co-operative society on any one of the following grounds:-

(1) The name of the proposed co-operative society is identified with or which nearly resembles the name of an already registered co-operative society or the name is in contravention of any law for the time being in force;

(2) In the opinion of the Registrar, the name of the proposed co-operative society, is likely to deceive or mislead the members of the public as to its nature or identity;

(3) In the opinion of the Registrar, the aims and objects of the co-operative society are similar to those of a co-operative society already functioning in that particular area satisfactorily and other co-operative society in the same area may not be viable.

(4) Except otherwise permitted, the members of a co-operative society do not reside within the area of its operation or in the opinion of the Registrar are drawn from heterogeneous elements.

(5) If in the opinion of the Registrar, area of operation of a co-operative society extends over an un-manageable area.

(6) The proposal for registration of a co-operative society is against the principles of cooperation.

(7) Any other ground considered just and equitable by the Registrar.”

7. As can be seen from above, an application for registration of Society can be rejected only on grounds as mentioned in Rule 9 of the DCS Rules 2007 and existence of large number of societies in the area is no such ground for rejection. Further letter of Registrar does not indicate whether any attempt was made to determine exact number of cooperative societies operating in the area. The reasons given in this rejection letter are quite vague. The rejection letters dated 21.1.2013 & 10.10.2013 are, therefore, set aside and the case is remanded back to the RCS to examine the Appellant's application afresh and decide the same strictly in accordance with the provisions of law especially in the light of parameters contained in Rule 9 of DCS Rules, 2007 after granting opportunity of being heard to the petitioner.

8. Announced in the open Court.

-SD-
(DHARAM PAL)
Financial Commissioner, Delhi
13th January, 2015