

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Appeals under section 112 (a) of Delhi Co-Operative Societies Act,
2003

Case No. 240/2013

In the matter of

Mithla Coop (Urban) Thrift & Credit Society Ltd.

(Proposed)

157/47/3, First Floor

Rameshwar Nagar

Delhi-110009

Through Its Chief Promoter

Sh. Vinay Kumar Mishra

Appellant

Versus

The Assistant Registrar

North West Office of RCS

Parliament Street New Delhi

Respondent

Case No. 80/2014

In the matter of

Pragati Gayitri Urban Coop Thrift & Credit Society Ltd.

(Proposed)

18, First Floor Pocket-22, Sector-24, Rohini

Delhi-110085

Through its President Tarun Pahwa

Appellant

Versus

The Assistant Registrar

North West Office of RCS

Parliament Street New Delhi

Respondent

D.M. SPOLIA, FINANCIAL COMMISSIONER

Order dated May 30, 2014

1. This order will dispose of the two appeals filed by the appellants namely, Pragati Gayitri Urban Coop Thrift Credit

Society Ltd. and Mithla Coop (Urban) Thrift & Credit Society Ltd. under section 112 (a) of Delhi Co-operative Societies Act, 2003 against the impugned orders No F.42/T&C/NW/COOP/2013/3005 dated November 20, 2013 and No. F.42/T&C/NW/COOP/2013/3015 dated November 21, 2013, respectively passed by the Assistant Registrar (NW-I) vide which the proposals of both the appellants had been rejected on the ground that the societies already registered in the area in question appear to be adequate, hence there is no justification for allowing fresh registration of Thrift & Credit Societies in the area.

2. Since common points are involved in both the cases, common arguments had been heard. Ld. Counsel for the appellants were heard exhaustively. He submitted that appellant societies had applied for the registration with the office of Assistant Registrar North West District co-operative society Parliament Street, Delhi along with the requisite documents.

3. He stated that thereafter Assistant Registrar (NW-1) vide letters dated November 20, 2013 and November 21, 2013 conveyed that competent authority had considered the request of the appellant for registration of Thrift and Credit Society and rejected on the ground that the societies already registered in the area in question appeared to be adequate. Hence, there was no justification for allowing fresh registration of Thrift & Credit Societies in the area, in respect of Mithla Coop (Urban) Thrift & Credit Society Ltd, respectively and M/s Pragati Gayitri Urban Coop. Thrift & Credit Society Ltd.

4. Ld. Counsel for the appellant further argued that Ld. Special RCS failed to state points for its determination, decision and reasons thereof. In the impugned orders it has not been mentioned that whether the legislature in Delhi Co-Operative Societies Act provides for any particular number of societies to be registered in Delhi. Whereas Rule 9 of Delhi Co-Operative Societies Rules, 2007 has vested powers with the Registrar for refusing to register a Co-operative society on the grounds which are being reproduced below:

“(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 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 of registration of a co-operative society is against the principles of co-operation.

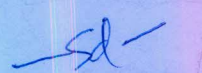
(7) Any other ground considered just and equitable by the Registrar.”

5. The Department in its reply failed to furnish any cogent basis for reason relied upon in the impugned order for rejecting the application of appellants. On enquiring from the representative of the office of the Registrar of Co-operative Societies (RCS) “Whether there was anything at all that required the RCS to enter into the question of adequacy and, if so, how does the RCS

determine the same". The representative clearly stated that there was no policy in the department to rely upon or determine the adequacy of thrift and credit societies in a particular area. Further, no criteria had been evolved and no principle had been laid down for doing so. In other words, only the number of such societies in an area is surely not enough.

6. In view of above, it is clearly evident that there is an element of arbitrariness in the rejection of the appellants' applications for registration of the thrift and credit societies. The impugned orders are therefore set aside. The matter is remanded back to the RCS with the direction to provide one more opportunity to the appellant societies and pass a well reasoned order after hearing the concerned parties as per the provisions of Delhi Cooperative Societies Act and Rules within a period of one month, from the date of issue (pronouncement) of this order.

7. Announced in the open Court.



(D.M. SPOLIA)
FINANCIAL COMMISSIONER: DELHI
May 30, 2014