

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No.137/2013

Revision Petition under Section
116 of Delhi Co-Operative
Societies Act, 2003

In the matter of :

**Chinar C.G.H.S. Ltd.
Plot No. 3, Secotr-18, Dwarka,
Phase-II, New Delhi-110078.**Petitioner

V E R S U S

- 1. The Registrar Co-operative Societies,
Office of the Registrar Co-operative Societies,
Govt. of NCT of Delhi, Parliament Street,
Old Court Building, New Delhi**

- 2. The Assistant Registrar (SW),
Office of the Registrar Co-operative Societies,
Govt. of NCT of Delhi, Parliament Street,
Old Court Building, New Delhi** Respondents

NAINI JAYASEELAN, FINANCIAL COMMISSIONER

Order dated 17.07.2015

1. This order shall dispose of the revision petition filed by the petitioner namely Chinar CGHS Ltd. under Section 116 of Delhi Co-operative Societies Act, 2003 against the impugned order dated 10.06.2013 passed by the Assistant Registrar (SW). Vide this order society was directed that :

"non submission of oath in stamp paper or leaving any row/column unfiled may not be sufficient ground for disqualification or rejection. Such applicants may be allowed to submit affidavit on oath or complete any missing entries in the application form, as the case may be."

2. Society filed a revision petition before this Court and submitted as under :

- i) That it would be relevant to mention herein that two members of the petitioner had resigned and on account thereof two vacancies were created in the petitioner society.

- ii) On account of the above said two vacancies, Society vide letter dated 28.06.2012 informed the respondent that society had taken out advertisement on 27.06.2012 in two news papers. But on the directions of the Respondent vide letter dated 31.07.2012, society issued the advertisement in same news papers for cancelling the advertisements dated 27.06.2012 as the said advertisement was in violation of Rule 19 (2) of the DCS Rules, 2007.
- iii) Again after the approval of the RCS an advertisement was published in two news papers namely the English News Daily "The Hindu" and the Hindi News Daily "Veer Arjun" on 09.03.2013.
- iv) In response to the said advertisement / public notice dated 09.03.2013 in the two news papers, 38 persons obtained the said applications forms from the office of the petitioner society, however only 29 applications were received by the petitioner society.
- v) Thereafter the petitioner society, vide letter dated 15.04.2013, informed the respondents that four valid application forms had been received by the petitioner society against the two vacancies and as such requested the office of the respondent to conduct the draw of lots as the number of eligible applicants were more than one in each category.
- vi) That thereafter the respondents, vide letter dated 22.04.2013, informed the petitioner society that non submission of the declaration on oath as per Rule 19 (1) (ii) of DCS Rules, 2007 or any row of the application being incomplete etc. do not amount to disqualification or rejection. The respondents further stated that the same may be rectified by calling the applicants personally.
- vii) Thereafter the office of the respondents, vide letter dated 10.06.2013, directed the petitioner society to clarify on the issues raised therein, moreover, the said letter further

informed the petitioner society that non submission of oath in stamp paper or leaving any row/column unfilled may not be sufficient ground for disqualification or rejection.

viii) Therefore, the impugned letter needs to be set-aside as the submission of declaration on oath was a pre requisite as per the advertisement as also in view of Rule 19 (1)(ii) of the DCS Rules, 2007.

3. RCS office files the reply to the revision petition and submitted the following :

(i) Vide letter dated 15.04.13, the society informed that 38 persons obtained application forms, and 29 filled up applications received back. The society further informed that out of 29 applications, only four applications were valid, two in each category and the remaining application had been rejected. It is submitted that 12 applications were rejected for not filing of oath on stamp paper / notarized, which was not specifically declared by the society in the advertisement. It is further submitted that the oath format was printed in such a manner on the application forms that it was difficult for a lay man to understand, whether the same was to be filed up or it was just a format for the oath.

(ii) The advertisement published on 27.07.2012 was in violation of DCS Rules 2007, the cheques were required to be delivered in the Post Box Nos. 9447 and 13290 which was unjustified and had no procedure of acknowledgement of the cheques. Hence the competent authority was pleased to cancel the advertisement.

4. During the proceeding on 10.07.2015 Counsel for petitioner submitted that :

(i) Counsel for Petitioner submitted that RCS office vide letter dated 31.07.2012 cancelled the advertisement published on

27.07.2012 for induction of 2 new members as it was violation of Rule 19(2) of DCS Rules, 2007.

- (ii) Subsequently, Society vide letter dated 26.02.2013 forwarded a revised copy of advertisement for the information of RCS office and same was approved and forwarded to Programmer (Computer Cell) for uploading on the website of the Department. Accordingly, the advertisement was re-published on 09.03.2013.
- (iii) However, vide order dated 10.06.2013, RCS directed the Society to consider those applications for draw of lots which had been submitted without oath on stamp paper or leaving row/column unfilled by the applicant. This direction is contrary to the Rule 19 (1)(ii) of DCS Rule, 2007.

5. I have heard arguments and considered all the facts and circumstances on record and set aside the impugned order of the Assistant Registrar (SW) as it is violative of Rule 19(1) (ii) of the DCS Rules, 2007.

6. Pronounced in the open Court on 17.07.2015.

-sd-
(NAINI JAYASEELAN)
Financial Commissioner