

Case No. 62 of 2023

26.02.2026

Present : Shri Alok Jain, Petitioner in person.
: Ms. Vasu Singh, Counsel alongwith Shri Shahid and Shri Jitender, Sr. Asstts, for R-1, RCS.
: Shri R. K. Savant, Administrator for R-2, Society.
: Shri N. S. Dalal, Counsel for R-3.
: Shri Soran Singh, Deputy Director (Retd.) and Shri Vishesh, Sr. Asstt. for Fact-finding Committee.

1. The Petitioner specifically relied on the judgment dated 16.08.2010 of Delhi High Court, asserting that the said order did not grant an absolute right to the R-3, but remanded the matter to the RCS to determine his eligibility based on property ownership. The Petitioner further argued that the Respondent suppressed material facts regarding his assets. Petitioner specifically drew attention to the R-3's own 'Statement of Affairs' previously submitted to the authorities, wherein he admitted to owning properties. This admission coupled with his existing properties in Saket and South Extension, serves as a permanent bar to his membership. Further, the Petitioner contended that the seniority of the Respondent, Sh. R.K. Aggarwal is legally inconsequential because he stands disqualified under Society's Bye-law 5 (1) (e):- :- *"He or his wife (she or her husband in case of a woman) or any of his/her dependence does not own a plot or a dwelling house in Delhi"..*
2. The Petitioner stated that since his father, Sh. V.K. Jain was a regularized member as of 1977 and does not suffer from any such disqualification, the last remaining plot (No. 90) should rightfully be allotted to his legal heirs. Petitioner further raised the issue that after regularisation of membership of V. K. Jain

in 1977, R-2, society issued letter to RCS for confirmation of the said membership. He further submitted that in this regard almost 50 letters/communication issued to RCS but with no response from RCS which is a grave injustice & harassment of the Petitioner.

3. Counsel for R-1, RCS submitted the department is bound by the historical records and the seniority list. She stated that R-3's membership dates back to 1968, making him the senior-most claimant. While acknowledging the 1974 expulsion, the Counsel noted that the High Court's Division Bench had restored the Respondent's membership in 29.07.1991. Regarding the Petitioner's father, Sh. V.K. Jain, the RCS Counsel argued that although he was on the waiting list in 1976, there is no official record or "approval" from the RCS office regularizing his membership in 1977. The Counsel's position was that seniority, as per the established list, favours R-3 and the RCS has acted in accordance with the High Court's previous observations regarding that seniority.
4. Counsel for RCS further stated that as per records, it is confirmed that neither the Petitioner nor his predecessors, Late Sh. V.K. Jain and Late Smt. Snehlata Jain, were ever members of the Society nor their names do not appear in the freeze list or the waiting list. Furthermore, the claim of the Petitioner's predecessor was dismissed by the judgment dated 16.08.2010 in WPC No. 1678/1992 by the Hon'ble High Court of Delhi and a subsequent judgment dated 24.02.2023 in WPC No. 7273/2022. To this, petitioner rebutted and stated that High Court order did not grant an absolute right to the R-3, but

remanded the matter to RCS to determine his eligibility based on property ownership.

5. Counsel for R-1, RCS further submitted that as per the Fact-finding Committee regarding membership of Petitioner herein and R-3 herein that membership of R-3/R.K. Aggarwal in the R-2, Society way back to 1968 which is governed by the Bombay Co-operative Act, 1925 and DCS Rules, 1950. Although his membership was previously subject to expulsion which was restored to its original status with all benefits by a Division Bench of the Hon'ble High Court of Delhi vide judgment dated 29.07.1991 which was subsequently upheld by the Hon'ble Supreme Court of India vide Order dated 10.02.1992. In contrast, the predecessor-in-interest of the Petitioner (Sh. V.K. Jain) was only inducted as a Waiting List member in 1976 against a resignation. The Committee noted that this membership was never confirmed or approved by the R-1/RCS nor was it ever legally transferred to his nominee/Sneh Lata Jain or the Petitioner herein. Consequently, R-3 herein holds undisputed seniority. However, on query of Court, why RCS did not decide the membership of Petitioner from 1977 (when case was recommended by the Society to RCS to confirm membership of Alok Jain) till 1991 (when Division Bench of High Court restored R-3's membership) she could not give any clarification.
6. Counsel for RCS further stated that the issue of allotment of left-out single plot no. 90(150 sq. yds) had to go to R-3 since he was willing to accept a smaller plot. The Hon'ble High Court of Delhi, in its order dated 16.10.2010 held that since R-3 herein seniority relates back to 1968, his entitlement ranks higher than that of the Petitioner. The Court further

held that although R-3 herein originally claimed a 200 sq. yd. plot, his willingness to accept a smaller plot (150 sq. yds.) satisfies his claim. This position was reaffirmed by the High Court in a subsequent judgment dated 24.02.2023 which explicitly stated that the issue of entitlement to Plot No. 90 has been decided and cannot be re-agitated by the Petitioner.

7. Counsel for RCS further stated that issue regarding disqualification of R-3 under Rule 20(1)(c)(i) of DCS Rules, 2007 is already dealt in RCS order dated 18.12.2013, wherein R-3 does not occur any disqualification from being a member of Society. However, on query of this Court on how DCS Rules, 2007 could be applied retrospectively and why the Society's bye-laws specifically Section 5(1)(e) is not looked into, which states that:- "*He or his wife (she or her husband in case of a woman) or any of his/her dependence does not own a plot or a dwelling house in Delhi*". On this query, Counsel for RCS stated that the Fact-finding Committee did not consider this aspect and accepted that R-2, Society's bye-laws do apply if Acts & Rules are silent on this aspect. She also admitted that Acts & Rules then in force would apply and not DCS Rules, 2007.
8. The Counsel for R-3 relied on the principle of res judicata and the 16.08.2010 High Court order, asserting that the issue of seniority has already been settled in their favour. Regarding the allegations of multiple properties and By-law 5(e), they argued that the properties mentioned do not meet the threshold for disqualification. They contended that under the rules applicable at the time of their membership (1968), and even under current Rule 21 (1) (c) (i) (a) of DCS Rules, 2007, the size of the residential holdings must exceed 66.72 square meters to trigger

a bar on membership. They maintained their property interests in Delhi are either below this limit or do not legally conflict with the Society's by-laws. They requested the Court to uphold the RCS decision to allot Plot No. 90 to them based on their long-standing seniority. On query of Court, neither RCS, nor Counsel of R-3 could bring out any inconsistency in bye-laws of Society and the Bombay Cooperative Act, 1925 and DCS Rules, 1950 prevailing at that point of time.

9. Administrator for R-2 appeared in person and stated that he had written letters to the R-2, Society multiple times and also to the RCS to hand over the record of the Society but Society's replied by saying that the records are not traceable.
10. Keeping in view of the above submissions made by both the sides, both the parties are directed to file their brief written submissions alongwith critical support documents, if they so wish, in support of their averments latest by 06.03.2026, whereafter the orders shall be passed based on the documents available on record.
11. The case is reserved for pronouncement of orders on 13.03.2026.


**Financial Commissioner
Delhi**