

Registrar Of Cooperative Societies vs Federation Of Progressive Societies on 20 January, 2020

Bench: D.Y. Chandrachud, Hrishikesh Roy

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal Nos 429-430 of 2020
(Arising out of SLP(C) Nos 888-890 of 2020)

Registrar of Cooperative Societies

Versus

Federation of Progressive Societies

ORDER

1 Leave granted.

2 The Registrar of Cooperative Societies 1 has moved thi

Article 136 of the Constitution seeking a modification of the directions issued by the Division Bench of the High Court of Delhi on 22 October 2019 in Writ Petition (C) No 1283 of 2014. Besides the order dated 22 October 2019, there is also a challenge to a subsequent order dated 2 December 2019 dismissing an application for recall of the earlier order. 3 The issue which has been raised in the present appeals pertains to the verification of the members of fifteen cooperative societies which are represented by the Federation of Progressive Societies (registered), the respondent to these proceedings. In a judgment rendered by this Court in Delhi Development Authority v Bankmens Cooperative Group Housing Society Limited², it has been observed thus:

1 “RCS” 2 (2017) 7 SCC 636 “23. Another argument raised is that verification of the members is only to be done when the plots are to be allotted and such verification is not required at the time when the land is to be allotted to the Society. We are not at all in agreement with this submission. If this submission is accepted, in every case DDA will be presented with a fait accompli and the situation as prevailing in Lords CGHS case would come into play. In a case like the present one, where the very

revival of the society or the creation thereof is wholly illegal, verification of the members must be done even at the stage before the land is allotted to the society.”

4 Emphasising the need for verification, Mr Nikhil Nayyar, learned Senior Counsel appearing on behalf of the RCS has adverted to the policy of the Delhi Development Authority which is in the following terms:

“Documents required for Allotment of Land to CGHS Delhi Development Authority allots Lands to Cooperative Groups Housing Societies on receipt of recommendation of RCS on seniority basis. On receipt of the recommendations, the Cooperative Groups Housing Societies are requested to furnish the following documents:-

a. Registration number and the date of Registration.

b. Total number of members in the society (Photocopy of list of members duly verified by the RCS together with its covering letter be attached). c. Date of approval of the final list of members by the RCS.

d. Name of the secretary and the President of the society (Please attach list of office bearers). e. Date of adaptation of model bye-laws for cooperative group housing societies alongwith the approval of RCS. f. Preference in respect of allotment of land. (Area in which allotment is sought).

g. Challan number and date whereby 25% of the total premium and 10% of the total premium towards earnest money have been deposited.” (emphasis supplied)

5 Clause (b) above specifically postulates that in order to facilitate the allotment of land to cooperative group housing societies, a photocopy of the list of members duly verified by the RCS, together with a covering letter, has to be attached, coupled with the date of approval of the final list of members by the RCS.

6 The record before this Court indicates that the proceedings before the Delhi High Court have a chequered history. It appears from the record that an investigation was carried out by the Central Bureau of Investigation. An order was passed by the Division Bench of the High Court on 3 October 2005 recording relevant details. Subsequently, in an order dated 13 February 2006, the High Court recorded that out of 152 societies which were referred for investigation, 22 had been found to be genuine. An order was passed by the High Court on 4 August 2014 in which the following directions were issued:

“i. The petitioners/societies shall place before the concerned Assistant Registrar of Cooperative Societies all the documents available with them with regard to the verification conducted and the authentication of the freeze-lists by the office of the Registrar Cooperative Societies reflecting the names and details of members within a week from today.

ii. Any other document which has been issued by the Registrar of Cooperative Societies which reflects verification of the membership of any other member shall be placed before the Assistant Registrar of Cooperative Societies within a week from today.

iii. The petitioners shall point out the names of such members who have been inducted in the society after 'freeze- list' was finalized by the Assistant Registrar of Cooperative Societies as well as documents in support with regard to validity of their memberships, if not already furnished.

iv. In case such documents have not been already furnished, they shall be produced for scrutiny before the Assistant Registrar of the concerned Cooperative Society on 11th August, 2014 at 3:00 p.m. and this exercise shall continue every day at 3:00 p.m. till the scrutiny of the documents is complete. In any case, the scrutiny shall be completed within two weeks.

v. The Assistant Registrar concerned shall be bound by the observations made by us in this order with regard to the members whose names stand verified and confirmed in the freeze-list, on the aspect of requirement of proof of residence as well as non-applicability of Schedule VII of the Delhi Cooperative Societies Rules, 2007 at this stage.

vi. The report shall be submitted to this Court within three weeks from today.”

7 Subsequently, on 8 September 2016, a Division Bench of the High Court, while taking note of Rule 90 of the Delhi Cooperative Societies Rules 2007, emphasised the need for verification even before the process of allotment is carried out by DDA, in order to obviate disputes in the future. In paragraph 21 of its order, the High Court observed:

“It may also be noted here that the order dated 14.08.2014 records that verification of membership has to be carried out under Rule 90 of 2007 Rules post construction of flats. We have directed the aforesaid exercise of verification with the desire and intention that once the said verification is carried out, there would not be any dispute or debate at a later stage. Rejection of membership or application for enrolment for technical reasons, after payment of the cost of land and construction is an agonising and tormenting ordeal. The inquiry under Rule 90 of 2007 Rules would be undertaken and carried out at the appropriate stage.”

8 Mr Nayyar submitted that the RCS is fulfilling the mandate of conducting a verification of members and there should be no substantive objection on the part of the respondent to this exercise being completed. Learned Senior Counsel urged that the RCS would complete the process of verification within a period of two months, immediately after the elections to the Legislative Assembly are completed by the middle of February 2020. 9 This submission has been opposed on behalf of the respondent – Federation. It was urged that the process of verification has already been

carried out and hence, it is not necessary to do so again, at this stage. Moreover, it was submitted that from the orders dated 3 October 2005, 13 February 2006 and 4 August 2014 of the High Court, it would emerge that the RCS had, in fact, carried out a detailed exercise and hence, it would be unnecessary to issue any direction for verification. 10 There can be no gainsaying the importance of a due and proper exercise of verification being completed by the RCS. This facet was, in fact, highlighted in the order of the Division Bench of the High Court dated 8 September 2016. While taking note of the earlier order dated 4 August 2014, the High Court nonetheless was of the categoric view that a proper exercise of verification is necessary. This, as we find, has also been emphasised in the judgment of the two-judge Bench of this Court in Bankmens (supra) .

11 Having regard to the above background, the RCS filed a reply before the Delhi High Court in CM No 33312 of 2018 specifically highlighting the status of the verification in the following terms:

“It is relevant to bring on record the status of the verification carried out till 3rd December, 2016 as per the directions of Hon’ble High Court dated 4.8.2014 and thereafter which are tabulated and annexed herewith at Annexure -R1/1. A perusal of Annexure - R1/1 reveals that as against total freeze strength of 1634 in these 15 societies, the present membership in these societies is 1228 and out of that 557 (approx.45.3%) members were not to be verified as per the order of this Hon’ble Court dated 4.8.2014, 78 (approx. 6.4%) of the members did not appear finally before the AR as per the details submitted by the affidavit dated 3.12.2016. To sum up a total of 635 persons out of 1228 were not verified on account of 557 (approx 45.3%) of them appearing in the freeze list initially and continue to be member of the society as on date and 78 (approx. 6.4%) of them did not appear or did not remove deficiencies meaning thereby 51.7% of the existing members of these societies were not verified.”

12 The attention of this Court has also been drawn to the following averments contained in the application filed by the RCS for the recall of the previous directions of the High Court dated 22 October 2019, where it was stated:

“That it is further respectfully submitted that this aspect also needs to be considered in view of the fact that this Hon’ble Court vide its order dated 04.08.2014 was pleased to restrict the ongoing verification exercise of the entire membership, to the limited extent of verification of members whose names were included in the freeze list was not carried out. It is relevant to refer to the details of the verification completed till 3rd December, 2016 as per the directions of the Hon’ble High Court vide order dated 4.8.2014 and thereafter. The affidavit dated 3.12.2016 placed on record earlier in these proceedings reveals that as against total freeze strength of 1634 in these 15 societies, the present membership in these societies is 1228 and out of that 557 (approx.45.3%) members were not to be verified as per the order of this Hon’ble Court dated 4.8.2014, 78 (approx. 6.4%) of the members did not appear finally or did not remove the deficiencies. To sum up, a total of 635 persons out of 1228 (52%) were not verified meaning thereby that only 48% of the existing members of these societies could be verified.”

13 Having regard to the above factual background, we are of the view that the submission which has been made by the RCS for carrying out the process of verification is in order. At the same time, a verification cannot be allowed to linger on for an intermittently long period and must be completed within a time bound schedule. We accordingly order and direct that the RCS shall carry out a verification of the members of the fifteen cooperative housing societies represented by the respondent, including of the freeze list, and shall complete the exercise on or before 15 April 2020.

14 In the reply filed by the RCS before the Delhi High Court, which we have extracted earlier, it has been stated that a total of 635 persons out of 1,228 were not verified on account of 557 persons (approximately 45.3%) appearing in the freeze list initially and 78 (approximately 6.4%) did not appear. Thereby, 51.7% of the existing members of the societies were not verified. We clarify that the direction for verification will be confined to those, in the above terms, whose names are still to be verified by the RCS. The modalities of verification shall abide by the directions which were issued by the Delhi High Court on 8 September 2016 for facilitating the process of verification.

15 We have taken note of the assurance of Mr Nayyar that the exercise will be initiated immediately after the conclusion of the Assembly elections in the middle of February 2020. If any facilitative direction is required hereafter for implementing this order, it would be open to either of the parties to move the High Court for appropriate directions. These directions shall be over and above which have already been issued by the High Court.

16 The appeals are accordingly disposed of. There shall be no order as to costs.

.....J. [Dr Dhananjaya Y Chandrachud]
.....J. [Hrishikesh Roy] New Delhi;

January 20, 2020

ITEM NO.22

COURT NO.7

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C)

No(s).889-890/2020

(Arising out of impugned final judgment and order dated 22-10-2019 in CMA No. 33312/2018 and 02-12-2019 in CMA No. 51899/2019 passed by the High Court of Delhi at New Delhi) REGISTRAR OF COOPERATIVE SOCIETIES Petitioner(s) VERSUS FEDERATION OF PROGRESSIVE SOCIETIES Respondent(s) (WITH I.R. and IA No.6367/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT) Date : 20-01-2020 These petitions were called on for hearing today. CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD HON'BLE MR. JUSTICE
HRISHIKESH ROY For Petitioner(s) Mr. Nikhil Nayyar, Sr. Adv.

Mr. Gautam Narayan, AOR Ms. Asmita Singh, Adv.

Mr. Adithya Nair, Adv.

For Respondent(s) Mr. Rajat Aneja, Adv.
 Mr. Kartik K. Sood, Adv.
 Mr. K. N. Rai, AOR

UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeals are disposed of in terms of the signed order. There shall be no order as to costs.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

(Signed order is placed on the file)