

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No.24/2003-CA

**Revision Petition under section
80 of Delhi Cooperative
Societies Act, 1972**

246/2009-CA

**Application under section 340
of Cr. P.C.**

In the matter of :-

- 1. The Kangra Co-operative Bank Ltd.
C-29, Janakpuri Community Centre,
Pankha Road, Janakpuri
New Delhi
(Through its Managing Director) ...Petitioner
(Represented by Shri J. N.
Gupta, Counsel for the
Petitioner)**

VERSUS

- 1. Shri Kuljit Singh Walia,
H.No.3/F, Block D, Street A-1
Ratiya Marg, Sangam Vihar
New Delhi.**
- 2. The Registrar of Co-operative Societies
Govt. of NCT of Delhi,
Parliament Street
New Delhi.**
- 3. The Joint Registrar of Co-operative Societies
Govt. of NCT of Delhi,
Parliament Street
New Delhi
.... Respondents
(Represented by Shri
Kuljit Singh Walia, R-1 in
person)**

ANAND PRAKASH, FINANCIAL COMMISSIONER

Order dated on 18.11.2016

- 1. This order shall dispose of the revision petition under section 80 of DCS Act, 1972 filed by the petitioner bank against the impugned order dated 10.12.2002 passed by the Joint Registrar of Co-Operative Societies in case No.24/2003-CA and application under section 340 Cr.PC filed by the R-1 in case No.246/2009-CA.**

2. Petitioner bank has filed the revision petition against the order dated 10.12.2002 vide which Joint Registrar did not approve the expulsion proceedings against Shri Kuljit Singh Walia R-1. In this order Joint Registrar observed that petitioner bank in General Body Meeting held on 27.02.2000 terminated the membership of 177 members but the case in respect of only one member Shri Kuljit Singh Walia, (R-1 herein) was forwarded to RCS office for approval of expulsion which is discrimination against R-1(hearing). Petitioner bank contended that –

i. The R-1 is a member of the petitioner bank and defaulted in payment of the dues and the same had to be recovered by getting the award executed through the recovery officer.

ii. In the GBM held on 27.02.2000 it was unanimously decided that the membership of such members who became defaulters and whose dues were recovered through the arbitration process in the office of RCS should be terminated. In pursuance of it bank terminated the membership of total 177 members and except R-1 other members have not challenged the termination of membership or resigned voluntarily. Therefore, there was no discrimination against R-1, as Joint Registrar observed in his impugned order dated 10.12.2002.

iii. Joint Registrar failed to appreciate the provisions contained in Section 28 of DCS Act, 1972 and the law laid down by the Hon'ble Supreme Court in case of the Mayurdhwaj Coop. Group Housing Society that the General Body is supreme to take decision in the interest of the working of the cooperative society.

3. R-1 in his reply to the Revision Petition submitted that the GBM held on 27.02.2000 passed the resolution against the defaulter members of the bank without giving any opportunity to enable them to explain themselves in the GBM. There were 177

defaulter members till 04.03.2002. R-1 also alleged some financial irregularities committed by the officials of the petitioner bank.

4. R-1 has filed an application under Section 340 Cr.PC in case No.246/2009-CA against 53 officials of petitioner bank for filing the tempered/forged copy of award dated 05.07.1995, before this Court. R-1 further alleged that these persons used the fabricated decree as genuine one and fraudulently the certificate for execution. R-1 also alleged that these persons mis-appropriated the public money through forgery, cheating and giving false and fabricated evidence before this Court. He also alleged that the office of RCS is not providing the lower court record and obstructed/hampered the proceedings before this Court due to non-production of lower court record. During the proceedings, Court directed R-1 to inspect the file and list the documents for which he has any specific apprehension but R-1 did not refer the specific documents which were required, where the alleged forgery had taken place and which such a specific forged documents were used in this Court for the financial irregularities in the bank, R-1 may raise this issue at appropriate Forum. I do not find any merit in the application under Section 340 of Cr.PC filed by R-1.

5. For the revision petition under section 80, I have heard both the parties and considered all the facts on record. It is an un-disputed fact that in the GBM held on 27.02.2000, membership of 177 members was terminated but only the case of R-1 was sent for approval of the RCS. Petitioner submitted that other members have not challenged the termination of membership or resigned voluntarily. As per rule 36 of DCS Rules 1973, Society can expel a defaulting member but as per sub rule 3 of rule 36 of DCS Rules 1973, approval of RCS is required to complete the expulsion proceedings. Joint Registrar in his impugned order dated 10.12.2002 aptly

observed that there is a discrimination against R-1 and the member has cleared the entire due against him and ultimately Joint Registrar did not approve the expulsion proceedings against R-1(herein). Petitioner has cited the order of Supreme Court of India in the case titled as Mayurdhwaj CGHS Vs. DCT land Ors. wherein Hon'ble Apex Court held that "General Body is the final authority in the affairs of the society", but the General Body also cannot take any decision contrary to DCS Act and Rules.

6. Considering the above facts, I do not find any reason to interfere with the impugned order dated 10.12.2002. Accordingly, both the Revision Petition and application under section 340 of Cr. P.C. are dismissed. No order as to cost.

7. Pronounced in the open Court on 18.11.2016.

(ANAND PRAKASH)
Financial Commissioner, Delhi
18.11.2016