

Supreme Court Bar Cooperative vs.registrar Cooperative Societies & Anr.

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Court : Delhi

Decided On : May-03-2019

Appellant : Supreme Court Bar Cooperative

Respondent : Registrar Cooperative Societies & Anr.

Judgement :

\$~18 * + % W.P.(C) 4706/2019 IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision:

03. 05.2019 SUPREME COURT BAR COOPERATIVE

... Petitioner

Through: Mr. D.K. Rustogi with Mr. Akshit Rastogi, Advs. versus REGISTRAR COOPERATIVE SOCIETIES & ANR.....

... RESPONDENTS

Through: Mr. Santosh Kr. Tripathi, ASC with Mr. Shashank Tiwari, Ms. Shivangi Singh and Mr. Rishabh Oswal, Advs. for R-1. Mr. Dayan Krishnan, Sr. Adv. with Mr. Vivek Kumar Tandon and Ms. Mamta Tandon, Advs. CORAM: HON'BLE MR. JUSTICE VIPIN SANGHI HON'BLE MS. JUSTICE REKHA PALLI VIPIN SANGHI, J.

(ORAL) C.M. No.20893/2019 W.P.(C.) No.4706/2019 Page 1 of 7 1. Exemption allowed, subject to all just exceptions. The application stands disposed of. W.P.(C) 4706/2019 & C.M. No.20892/2019 2. At the outset, it has been made clear to

learned counsels that one of us (Vipin Sanghi, J) is a member of the petitioner society. Neither of the counsels have an objection to this Bench hearing the matter.

3. The petitioner co-operative society has preferred the present writ petition to assail the order dated 05.04.2019 passed by Shri B.S. Thakur, Deputy Registrar in the Office of the Registrar of Co-operative Societies under Section 139 of the Delhi Co-operative Societies Act. The Deputy Registrar has allowed the said appeal preferred by respondent No.3 and directed the petitioner to provide the information which respondent No.3 had sought from the petitioner within two weeks of the issuance of the said order.

4. The respondent No.3, admittedly, is a member of the petitioner society. The information that she had sought from the petitioner society was the following: 1. A copy of the Application for Sanction, if any, filed on behalf of the Society with relevant Municipal Authorities for carrying out the subject Construction and Extension and Alteration of Club Buildings and Structures, duly bearing receipt of the application by the relevant Municipal Authorities.

2. A copy of the Sanction granted by the relevant Municipal Authorities for activities listed in Para 1 above. W.P.(C.) No.4706/2019 Page 2 of 7 3. A copy of the architectural drawings (with each revision, if any) duly certified by the Architect bearing date of each version for the activities listed in Para 1 above.

4. A summary of expenses incurred and paid to each / Sub- agency contractor for each head of expense for the said activities. including architect and each contractor 5. Copy of application for change of usage of the Community Centre /Club for Commercial activities like running Arbitration Rooms.

7. Summary of annual Revenue earned from Arbitration Rooms for each of the last five years.

8. Charges levied for arbitration rooms, and taxes levied thereon. 5. Since the said information was not provided, she had preferred the appeal under Section 139 of the Delhi Co-operative Societies Act which reads as follow: 139. Right to

information. (1) Any member or creditor having interest in the affairs of the co-operative society may seek information relating to any transaction of the co-operative society and for that purpose may be provided a certified copy of any document within thirty days from the date of receipt of application relating to such transaction on payment of such fee as may be specified. (2) Where a member or creditor having interest in affairs of a society seeking information prefers an appeal to the Registrar stating that the officer of the society without any reasonable cause, has refused to receive his application for providing information or has not furnished information within the time specified under sub-section (1) or has refused the W.P.(C.) No.4706/2019 Page 3 of 7 for information or knowingly given request incorrect information or obstructed in any manner in furnishing the information, the Registrar, after affording a reasonable opportunity of being heard to the officer of the society and the appellant, may either reject the appeal; or direct the officer of the society to furnish information within the period specified in the order or such extended period as may be allowed, and in case of default the Registrar may impose a penalty of two hundred and fifty rupees each day till the information is furnished, so however, the total amount of such penalty shall not exceed ten thousand rupees which shall be recoverable as arrears of land revenue in case of default in payment. 6. The submission of learned counsel for the petitioner is that the Deputy Registrar had passed an order on 22.01.2019. On the said date, the petitioner society had sought four weeks time to file a reply. The said request was opposed by respondent No.3. He submits that no effective orders were passed on the said date accepting or declining the request of the society. The petitioner was apprehensive that the Deputy Registrar would pass an order on the said appeal without hearing the petitioner and, consequently, sent a communication on 30.01.2019 that denial of opportunity to the petitioner would be in violation of the principles of natural justice.

7. Learned counsel further submits that a perusal of the order dated 22.01.2019 would show that the words kept for orders were added in hand, and do not form part of the typed order passed by the Deputy Registrar on the said date. He further submits that in breach of Section 139 and without granting a hearing to the petitioner, the impugned order has been W.P.(C.) No.4706/2019 Page 4 of 7 passed in complete breach of the statutory requirement and the principles of

natural justice.

8. We have heard Mr. Rustogi, learned counsel for the petitioner. Though, one option available to us is to set aside the impugned order and remand the case back to the Deputy Registrar for hearing, we are not inclined to adopt that course. This is for the reason that we have invited learned counsel for the petitioner to raise his objection to passing of an order under Section 139 of the Delhi Co-operative Societies Act and we have ourselves considered the submissions of Mr. Rustogi. We are inclined to adopt this course, since the matter does not involve determination of disputed questions of facts and is a plain and simple question which only requires interpretation of the scope of the right of a member to demand information from the society. Mr. Rustogi, however, submits that a post decisional hearing at this stage by this Court would not suffice, since a valuable right of the petitioner to oppose the appeal preferred by the respondent under Section 139 has been denied to the petitioner. We cannot agree because the issue raised is a simple question of interpretation of statutory provision, and the jurisdiction to undertake that exercise primarily falls upon the Courts.

9. The submission of Mr. Rustogi is that Section 139 (1) provides that any member or creditor having interest in the affairs of the Co-operative Society may seek information. However, this information, according to him, can be sought, in relation to any transaction of the Co-operative Society which pertains to the member or creditor, and not otherwise. He submits W.P.(C.) No.4706/2019 Page 5 of 7 that just because respondent No.3 is a member of the Co-operative Society, she is not entitled to seek information from the petitioner society of the nature sought by her.

10. We cannot agree with this submission of Mr. Rustogi. The plain and simple language of Section 139(1) does not put any embargo on the right of a member or creditor, who has an interest in the affairs of the Co-operative Society, to seek information relating to any transaction of the Co-operative Society.

11. The Co-operative Society is a body created by a group of persons collectively to achieve a particular object, and it must manage its affairs in a democratic way in compliance of the Act in the Rules. The Co-operative Society is a body which has to maintain complete transparency in its functioning. All its actions are taken in a

democratic way through managing committee and its office bearers, who are answerable to the general body of members. There is no activity or action that a Co-operative Society may take, about which it can maintain any secrecy. A member of Co-operative Society would, therefore, be entitled to seek any information in relation to any transaction of the Co-operative Society. This right has been extended even to a creditor, since he has a stake in the financial affairs of the Co- operative Society.

12. Since respondent No.3 is a member of the Co-operative Society, in our view, her right to seek information that she has sought in relation to the transactions of the petitioner society, cannot be denied. W.P.(C.) No.4706/2019 Page 6 of 7 13. We, therefore, do not find any merit in the present petition.

14. Dismissed. VIPIN SANGHI, J.

REKHA PALLI, J.

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