
(1996) 03 DEL CK 0041

In the Delhi High Court

Case No : Civil Writ Appeal No. 4924 of 1993

Jagdish Singh

APPELLANT

Vs

Lt. Governor

RESPONDENT

Date of Decision : 20-03-1996

Acts Referred:

Delhi Co-operative Societies Rules, 1973 — Rule 25(1)

Citation : (1996) 2 AD 539 : (1996) 37 DRJ 107

Hon'ble Judges : R.C. Lahoti, J; Lokeshwar Prasad, J

Bench : Division Bench

Advocate : S.S. Sabharwal and Sumeet Bansal, for the Appellant;

Judgement

R.C. Lahoti, J.

(1) This is a petition directed against an order dated 23.2.1993 passed by the Registrar Coop. Societies, Delhi declaring the membership of the petitioner ceased from two cooperative housing societies consequent to his having incurred disqualification under Rule 25 (I)(c) and (2) of Delhi Cooperative Societies Rules 1973, the order having been maintained by the Lt. Governor intervention decided on 25.8.93.

(2) The petitioner was enrolled as a member of Dronacharya Cooperative Group Housing Society Ltd. (hereinafter - Society-D, for short) on 9.8.90. Thereafter he also got himself enrolled as a member of Tribal Cooperative Group Housing Society Ltd. (hereinafter - Society-T, for short) on 29.11.83. He subsequently resigned from Society-T on 7.6.91. It is not disputed that the petitioner had continued to remain member of the two cooperative housing societies simultaneously between 29.11.83 and 7.6.91.

(3) The petitioner was issued a show cause notice under Rule 25 requiring him to show cause why he be not declared disqualified from membership. In his reply dated 30.10.92, the petitioner stated that he having resigned from the Membership of the Society-T, he had then remained member of Society-D only

and Therefore was not disqualified.

(4) The Registrar, Cooperative Societies has found that simultaneous membership of two housing societies by the petitioner continuously for a period of more than seven years was an admitted fact. On 25.1.91 the petitioner had filed an affidavit in society-D. declaring that neither he nor his wife nor any of his dependent relations including unmarried children during the period of his membership of this Society has been a member of any other house building society/group housing cooperative society functioning in the Union Territory of Delhi. This affidavit was certainly a false affidavit. The Registrar, Therefore, held the petitioner to have incurred disqualification for membership.

(5) It is submitted by the learned counsel for the petitioner that the petitioner having resigned from membership of one of the two societies, by the time the Registrar took decision in the matter of disqualification of the petitioner, the petitioner should not have been held disqualified as the disqualification had ceased to exist. In our opinion the submission so made is wholly devoid of any merit.

(6) The relevant part of Rule 25 reads as under:-

"25.Disqualification for Membership (1) No person shall be eligible for admission as a member of a cooperative society if he (a) xxx xxx xxx 109 (b) xxx xxx xxx (c) in the case of membership of a housing society :- (i) xxxxxxxxxx (ii) xxx xxx xxx (iii) he or his spouse or any of his dependent children is a member of any other housing society "except otherwise permitted by the Registrar. (2) Notwithstanding anything contained in the rules or the bye-laws of the co-operative society, if a member becomes, or has already become, subject to any disqualification specified in sub-rule (1), he shall be deemed to have ceased to be a member from the date when the disqualification were incurred."

(7) Thus the petitioner was disqualified from even seeking admission to the membership of Society-T wherefrom he has resigned. However once he got admitted to the membership of Society-T by virtue of Rule 25(2) he automatically became disqualified for the membership of Society-D. The Registrar has by his order merely recognised the factum of disqualification incurred by the petitioner and consequently bids automatic cessation from membership. The disqualification for membership of Society-D related back to 29.11.83, the date on which the petitioner was enrolled as a member of Society-T. The fact that the petitioner had ceased to be the member of Society-T by 23.2.93, the date on which the Registrar passed the impugned order, is wholly irrelevant.

(8) For the foregoing reasons, no fault can be found with the impugned orders of the Registrar Co- operative Societies and the Lt. Governor. The petition is dismissed though without any order as to the costs.