
(2000) 07 DEL CK 0156

In the Delhi High Court

Case No : CM No's. 7943 to 7946/92, 1554, 4085, 5436, 5893, 5894, 6877 to 6880, 7040, 7041, 7159 to 7161, 7532, 7639, 7775, 7902, 7931, 7974, 8051, 8052, 8724 and 8969/93, 1483, 1777, 1945, 4442 and 8302/94, 749, 816, 2025, 7621 and 7636/95, 2127, 3429, 3863, 5117

Ram Krishan Bhalla and Others

APPELLANT

Vs

Registrar of Co-operative Societies and Others

RESPONDENT

Date of Decision : 21-07-2000

Acts Referred:

Citation : (2000) 56 DRJ 778

Hon'ble Judges : K. Ramamoorthy, J;Devinder Gupta, J

Bench : Division Bench

Advocate : S.P. Pandey and C.M. Chopra, in CM 3863/96, R.K. Jain and Rakesh Khanna, in CM 1554/93, P.N. Lekhi, Rakesh Aggarwal, R.K. Gupta, B.L. Wali, Urmil Narang, V.K. Jain, Baldev Atreya, S.N. Gupta, Rajesh Goyal and S.P. Pandey, A.K. Jain, CMs. 7775/93 and 4442/9, for the Appellant; Sanjay Poddar, for Respondent No. 1, Alok Kumar, for Delhi School Teachers Co. House Building Society Ltd., Ravinder Sethi and Sunit Bansal, for DDA, R.P. Bansal and Sarabjit Sharma, for UOI, for the Respondent

Judgement

Devinder Gupta, J.—In the year 1961, Delhi School Teachers Cooperative House Building Society Limited was formed and duly registered at Serial No. 954 under the Bombay cooperative Society Act, 1925, as extended to the Union Territory of Delhi. The object of formation of the society was to regulate and cater to the housing needs of its members and process thereof to acquire suitable land, develop it and sell plots to its members on "no profit and no loss basis". Prospectus of the Society provided that the area of operation of the Society would be Delhi and only people connected in the recognised educational institutions in Delhi can become members and that the Society may have different housing colonies in Delhi. It also provided that any teacher, of a recognised school of Delhi and paid member of Delhi School Teachers Association or Government School Teachers Association, desirous of becoming a member of the Society has to be introduced by a promoter member of the Society and shall

apply in the prescribed form and purchase at least one share of the value of Rs. 400/-. Every applicant had to pay a sum of Rs. 5/- as membership fee on application. Every application received with appropriate dues was to be scrutinised and put up before the Managing Committee, which alone reserved to it the power to accept or reject it. Chapter III of the bye-laws of the Society, as approved by the Registrar. Cooperative Societies classified the members in two categories, namely (a) persons, who joined in the application for registration, and (b) Persons admitted, in accordance with the bye-laws. Bye-law 5 laid down the eligibility for becoming a member of the Society as under:-

5.(1) Any person shall be eligible to be a member of the society, provided;

(a) he/she is a resident in Delhi/New Delhi including Cantt. and must be a paid member of D.S.T.A. and employee of a recognised school. His or her membership shall however be continued even after his or her retirement.

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2. Amendment was made to the above bye-law with effect from 20.3.1968 with a view to admit non-teachers to the extent of 20% of the total membership. After amendment, the bye-law No. 5(1)(a) reads:

5.(1) any person shall be eligible to be a member of the society, provided;

(a) He/She is a resident in Delhi/New Delhi including Delhi Cantt. and must be a paid member of D.S.T.A. and employee of a recognised school. His or her membership shall however be continued even after his or her retirement (and 20% of the total membership be reserved for non-school employees).

3. The Society acquired some land pursuant to its objectives for the purpose of allotment to its members. It appears that the Managing Committee of the Society, pursuant to the amended bye-law 5(1)(a) admitted non-teachers as its members beyond 20% of the total membership and some of the teachers were not admitted as members. The dispute regarding membership of the Society was made subject matter of a reference. The Registrar. Cooperative Societies appointed Mr. J.D. Jain, Assistant Registrar. Cooperative Societies to examine the question of membership of the Society. He called upon all members of the Society as also the persons claiming to be members of the Society to produce before him the original receipts, bank passbook, bank payment certificates, allotment letter etc. On examination of the papers produced before him, Mr. J.D. Jain accepted the membership of 1482 persons. Pursuant to a question raised in Parliament, the said list of the members prepared by J.D. Jain was laid on the Table of Rajya Sabha on 22.2.1975. It further appears that the then Managing Committee, who was conducting election of the Society, excluded few members from the list of voters. Some of them approached the Registrar, Cooperative Societies. Feeling aggrieved by the inaction on the part of the Registrar, R.K. Bhalla and few others, whose membership had not been accepted by the Society, filed CAV. No. 659/77 in this Court. They challenged the action of the Society in

excluding their names from the list of the members of the Society and prayed for appointment of an Administrator to run the affairs of the Society till a new Managing Committee was elected by all the members of the Society.

4. The petition came up for admission on 15.9.1977 when Rule D.B. was issued and an interim stay of the election meeting, which was proposed to be held on 18.9.1977, was granted. More persons were allowed to be added as party to the writ petition on 12.1.1978 by allowing their application (C.M. No. 48/78) for impleadment. On 13.1.1978 it was noticed that there were two difficulties in the way of holding election, namely, validity of the act of exclusion of a few members by the Managing Committee and validity of inclusion of some out of 784 members, which disputes were required to be determined. As an interim measure, it was agreed that without going into the merits of their claim to membership of the persons concerned, and in order to hold election, a Commissioner may be appointed. The Commissioner may go into the two questions for the purpose of preparing a list of those members, who alone can participate in the election. Pursuant to the said agreement a Commissioner was appointed by the order passed on the same day, i.e. 13.1.1978, only by way of interim arrangement, for preparing list of those members, who alone could participate in the election.

5. After the report was submitted by the Commissioner, the matter was heard on 26.5.1978. All parties agreed to the method and manner of resolving the disputes, which had arisen for determination in the writ petition. The terms, which were agreed upon by the parties, as regards the method and manner of determination of the disputes with respect to admission of 839 persons, who were accepted as members of the Society by the then Managing Committee, were incorporated in the order dated 26.5.1978 and while doing so, the Court observed that the arrangement is sufficient to dispose of the writ petition. However, the parties requested to keep the petition pending so that the Court may exercise jurisdiction for seeing that the terms of the compromise are properly carried out. Accordingly, the petition was adjourned sine die with liberty reserved to the parties to move for directions.

6. By the above order dated 26.5.1978 Mr. R.C. Jain, Under Secretary (Law and Judicial), Delhi Administration was appointed as an Arbitration to hear objection, if any, regarding admission of 839 persons as members of the Society. The Registrar, Cooperative Societies was directed to get published a public notice in two leading newspapers inviting claim to membership of the Society and objections to the membership of 839 members. The order also provided for the manner of taking decision, availing of opportunity of filing appeal etc. and also on other matters in dispute.

7. The relevant clauses of the order dated 26.5.1978 read:-

(1) That the Registrar of Co-operative Societies will, within a week from today, display on his notice-board the names of 839 persons who are accepted as being

members of the Delhi School Teachers Co-operative House Building Society, by the present Managing Committee;

(2) Those 839 persons shall be deemed to be members of the Society unless an objection be raised to any of them and be accepted by the Registrar of Co-operative Societies of Delhi Co-operative Tribunal in the manner stated hereinafter;

(3) Within 10 days from today, the Registrar of Co-operative Societies will publish an advertisement in the Hindustan Times and the Nav Bharat Times inviting claims to membership of the Society and also objections to the membership of the 839 persons deemed to be members of the Society as aforesaid. The advertisement will specifically state that claims and objections must be filed before the Registrar of Co-operative Societies within 30 days of the date on which the advertisement is published and no claim or objection will be entertained if not filed within that time.

(4) The cost of the advertisements published in accordance with the previous paragraph will be paid by the Society to the Registrar on demand;

(5) With each claim or objection filed, in accordance with paragraph 3 above, the claimant or the objector will pay a sum of Rs. 30/- by means of a postal order drawn in the name of Mr. R.C. Jain. This requirement will be mentioned in the advertisement to be published in accordance with paragraph 3. The said postal orders will be handed over by the Registrar to Mr. R.C. Jain at the time that the claim or objection is made over to him;

(6) After the lapse of 30 days from the date of advertisement, the Registrar of Co-operative Societies will decide, within 60 days thereafter, all the claims and objections received by him;

(7) Any claimant or objector may file an appeal to the Delhi Co-operative Tribunal within 60 days from the date on which the Registrar makes his order. The Tribunal will decide the appeal within 60 days after it has been filed;

(8) It is hereby expressly agreed and understood that this agreement will be binding on all the parties regardless of whether the disputes dealt with hereby fall within the scope of Section 60 of the Delhi Co-operative Societies Act or not, and that this agreement will itself be deemed to constitute an arbitration agreement within the purview of Section 60 of the said Act;

(9) Notice of every claim or objection will be sent to the Society, respondent No. 11, by the Registrar and the Society will be deemed to be a party and entitled to participate in the proceedings;

(10) No party will be entitled to be represented by a legal practitioner before the Registrar or Mr. R.C. Jain or the Delhi Co-operative Tribunal;

(11) It is expressly agreed that the Arbitration Act, 1940 will not apply in respect of any claim or objection filed before the Registrar. The rights and remedies of

the parties will be governed solely by the Delhi Co-operative Societies Act;

(12) In view of this agreement, it is further agreed that elections for the Managing Committee will not be held until the expiry of 60 days allowed in paragraph 7 above for the decision of the appeals by the Delhi Co-operative Tribunal. Within 15 days after the expiry of the 60 days allowed by paragraph 7 above for the decision of the appeals filed before the Delhi Cooperative Tribunal, the Registrar will publish a list of the members of the Society in accordance with the findings of the Registrar and/or the Tribunal, the list will be final and binding on all parties and will not be brought into question in any suit or proceeding in any court whatsoever. Any member will be entitled to buy a copy of the list for a sum of Rs. 5/-;

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(23) It is agreed that all claims and objections will be filed before the Registrar, and that he will make over the same to Mr. R.C. Jain, Under Secretary (Law ? Judicial), Delhi Administration, for disposal;

(24) After the Registrar has heard a claim or objection filed before him and does not pronounce judgment forthwith, he will fix a specific date for pronouncement of the judgment. Apart from this, no notice need be given by the Registrar of the date on which he pronounces his judgment;

(25) Each claim or objection filed before the Registrar will pertain to a particular individual. In the event of more objections than one being filed in respect of the same member, the Registrar may in his discretion consolidate the objections and hear them together;

It is expressly understood that Mr. R.C. Jain and the Delhi Co-operative Tribunal will have power to award costs when deciding a claim or objection;

(26) If any claimant or objector applies to the Registrar for production of any books and papers in the possession of the Society, the Registrar may order the production thereof and may give inspection of the same to the claimant or the objector;

(27) The Registrar will be free, in hearing and deciding any claim or objection, to follow such procedure as he may think fit. Normally, he will decide the matter on the basis of affidavits, but may record evidence in any case in which he thinks fit to do so.

8. Before Mr. Jain gave his award, a clarification was sought by the Registrar from the court. On 21.11.1978 by an agreement of the parties, it was ordered that the Arbitrator should proceed to decide all the claims and objections before him and should neither concern himself with the question whether the limit of 20% as regards non-teachers imposed by bye-law 5(1)(a) is exceeded or not, nor should he concern himself with the question whether enough plots will be available for each member of the Society. It was also agreed that after all claims

and objections have been decided and any appeal, if taken, is also decided, Registrar, Cooperative Societies will prepare two lists of members, as found by the Arbitrator and the Appellate Authority. One list will contain names of all the teachers found to be members of the Society, according to their date of entry and the other list will contain the names of non-teachers, according to their date of entry. The order says that when lists are filed in Court, counsel for the parties will be heard on the question as to the meaning of bye-law 5(1)(a) and that how that bye-law should be given effect to as a result of the decision arrived at by the Arbitrator and the Appellate Authority. The order further recorded concession given at the Bar that no party at any stage will raise an objection to the effect that any non-teacher became a member of the Society prior to 1968, i.e., before amended bye-law 5(1)(a) came into force.

9. Pursuant to the aforementioned directions, Mr. R.C. Jain went into the question of membership. By his orders dated 15.1.1979 and 30.1.1979, various objections and pleas raised by the parties were decided. Individual claims for membership were also decided by him. Mr. R.C. Jain accepted the claim of 1029 persons as members of the Society. Claim of 22 persons was outrightly rejected for want of production of sufficient material before him.

10. Mr. R.C. Jain, who had acted as the Arbitrator pursuant to the order of the Court had been promoted as Deputy Secretary (Litigation) and was also appointed as the Appellate Tribunal under the Cooperative Societies Act. Accordingly, with the consent of all the parties on 18.5.1979 Mr. Gian Chand Jain, Secretary, Law and Judicial, Delhi Administration was appointed as the Authority competent to hear the appeals filed against the orders of Mr. R.C. Jain, Arbitrator. Mr. G.C. Jain, ultimately heard the appeals filed by the society questioning admission of 42 persons as members of the Society as also the appeals of 22 persons, who were aggrieved by the orders passed by R.C. Jain rejecting their claim for membership. G.C. Jain, Appellate Authority in his order dated 16.8.1979 allowed the appeal of the Society qua 42 persons and also rejected the appeals filed by 22 persons.

11. Feeling aggrieved by the decision rendered by G.C. Jain, the Appellate Authority, 42 persons, whose claims to membership of the Society were rejected, on acceptance of the Society's appeal filed C.M. No. 3456/79 in this court in the writ petition. In the meanwhile, pursuant to the order, which had been passed on 1.11.1978, two lists of the members, namely list of teachers and list of non-teachers were prepared which were also submitted to the Court. C.M. No. 3456/79 along "with C.M.Nos.2596/79 and 2762/79 was heard. During the course of hearing of these applications, learned counsel appearing for the Society came up with an offer to settle the matter on the terms, as had been agreed amongst the parties. On 16.5.1980, statement of learned counsel for the Society was recorded incorporating therein the terms of settlement, which terms were duly accepted by learned counsel appearing for the other parties and pursuant to the said statement, a consent order was passed by the Court. 688 teachers and

299 non teachers, in the respective lists of teachers and non-teachers, which were filed by the Registrar in this Court, were duly considered as having been accepted as members of the Society entitled to allotment. Decision on the three applications, being C.M. Nos. 2596, 2762 and 3456/79 was deferred till after the new Managing Committee was elected. As per the order, the new Managing Committee was to consider the cases of 12 persons, whose claim though had been accepted by Mr. R.C. Jain, Arbitrator, but had been rejected by Mr. G.C. Jain, the Appellate Authority. The Managing Committee was required to report its decision to the Court. By the same order, plots were ordered to be reserved to these 42 persons, in addition to 688 teachers and 299 non-teachers, whose claim was referred to the new Managing Committee. The order also disposed of a few other miscellaneous applications by accepting the claim to membership of Mrs. Raj Rani Chopra, Mr. Som Nath, Mr. Charanjit Lal and Mr. Ranbir Kumar Duggal. The order dated 16.5.1980 reads:-

"During the course of arguments, all the subsisting disputes have been settled between the parties. The terms of the settlement are contained in a statement made by Mr. Ramesh Chandra today which has been accepted either wholly or with some small qualification by counsel for the petitioners. Consequently, pursuant to the settlement arrived at we give the following directions:-

"1. That the 688 teachers and the 299 non-teachers named in the respective lists of teachers and non-teachers placed on record by the Registrar of Cooperative Societies shall pay to the Society a sum of Rs. 8,000/- on or before 30th September, 1980 less any amount admitted by the Society to have been already paid by them. They will also pay within the same time such equalisation charges by way of interest as may be due from them calculated on the same basis on which the Society has hitherto charged its members. Equalisation charges by way of interest will be charged up to 31st May, 1980.

2. In order to effectuate what is stated in the previous paragraph, the Society will prepare a list of the 688 teachers and the 299 non-teachers showing in respect of each of them; (i) the amounts, if any, already paid; (ii) the amount payable to make up the sum of Rs. 8,000/- and (iii) the equalisation charges by way of interest payable up to 31st May, 1980. The list will be exhibited on the notice board of the Society on or before 15th June, 1980. A copy will also be exhibited in the office of the Registrar of Co-operative Societies on the same date. One copy will simultaneously be given to Mr. K.B. Rohtagi, Advocate. It will be the duty of each person concerned to acquaint himself with the list and make payment accordingly on or before 30th September, 1980. The Society will publish a notice in the Hindustan Times and the Navbharat Times not later than 15th June, 1980 requiring every member to comply in all respects with this order. Individual notices to that effect will also be sent by the Society to all the 688 teachers and the 299 non-teachers by registered post. The notices will specify the amounts due and be posted on or before 15th June, 1980. The notices will also intimate the categories of plots, according to their sizes and the

approximate number of the plots available in each category. Along with the notices, the Society will send a form of the affidavit required to be filed in accordance with para-graph-4 hereinafter.

3. The payments mentioned in the previous paragraphs shall be made to the Society by bank drafts only drawn "account payee" in favor of the Society on a schedule payable at Delhi or New Delhi. The bank drafts may be delivered to the Secretary of the Society who will give a receipt for the same or may be sent to him by registered post acknowledgement due so as to reach the Society on or before 30th September, 1980. If there be any dispute or difficulty in making payment to the Society in the manner aforesaid, an urgent application may be moved in this Court before 30th September, 1980 setting out the particulars of the bank draft and seeking appropriate orders.

4. On or before 30th September, 1980 each teacher or non- teacher must deliver to the Society an affidavit in the form prescribed by the Land & Building Department, a specimen copy of which has been placed on record by Mr. Ramesh Chandra and marked "X". The Society will give a receipt for the affidavit. Along with the affidavit, the teacher or non-teacher shall, by a separate communication, indicate his preference as to the size of the plot to be allotted to him.

5. On or before 30th September, 1980, the persons who were directed by the Arbitrator to produce certificates from their banks to prove that a particular amount had been paid to the Society must produce and deliver the same to the Society. Likewise, on or before 30th September, 1980, those persons who were directed by the Arbitrator to produce certificates to the effect that they were teachers at the time at which they applied for membership of the Society must produce and deliver those certificates to the Society.

6. If any teacher or non-teacher fails to comply with any of the aforesaid conditions by 30th September, 1980, he shall, ipso facto, be deemed to have forfeited his right, if any, to be a member of the Society. To remove all conceivable doubt it is made clear that he will neither be entitled to the allotment of a plot, nor will he be entitled to participate in any meeting of the Society. However, he will be entitled to obtain a refund of any amount paid by him to the Society.

7. That after 30th September, 1980 the Society shall allot plots by draw of lots under the supervision of a nominee of the Land & Building Department and/or the Registrar of Co-operative Societies, to those of the said 688 teachers and the 299 non-teachers who have complied with the conditions set out in this order. The allotment of plots will be completed on or before 30th November, 1980 or such further time as may be granted by this Court after the allotment of plots, a report will be submitted by the Society to this court.

8. That after the allotment of plots has been made, a meeting of the General Body of the Society will be called for the particular purpose of electing a new

Managing Committee. Only those persons to whom plots have been allotted will be called to the meeting and will be allowed to participate therein. The meeting will be called in the manner and on the date directed by the court.

9. The Society is hereby granted permission to incur all expenditure necessary for the purpose of making allotment of plots and holding the aforesaid meeting in addition to the expenditure already authorised by the order of 26th May, 1978.

10. That orders on C.Ms. No. 25%, 2762 and 3456 of 1979 moved by 42 persons are deferred till after the new Managing Committee has been elected. The new Managing Committee will consider the cases of these 42 persons and report its decision to the court. In case any of these 42 persons is ultimately accepted to be a member by the Managing Committee or held to be a member by the court, he will be required to pay Rs. 8,000/- and equalisation charges by way of interest up to 31st May, 1980 on the same basis as the other members. These amounts will be paid within such time as the court may fix.

11. That if any of the 299 non-teachers forfeits his right to membership, the vacancy thus created will be filled up by a teacher until such time as the proportion mentioned in bye-law 5(1) (a) of the Society is restored.

12. That any other applications that may hereafter be made claiming membership of the Society will be considered after 30th September, 1980. The court may then, in its discretion, rule upon those applications at that time or postpone consideration thereof to some later stage.

13. In case it is proved to the satisfaction of the new Managing Committee that any of the 688 teachers or the 299 non-teachers had, in fact, paid any sums to the Society which the present Managing Committee did not admit to have been paid, then the new Managing Committee will be at liberty to refund the same and the equalisation charges by way of interest charged thereon. In the event of any of the said teachers or non-teachers being dissatisfied with the decision of the new Managing Committee with regard to a claim for refund, he or she will be at liberty to take such proceedings as may be open to him or her in law.

14. We hereby direct the Registrar of Co-operative Societies to audit the accounts of the Society up to date as soon as possible. We reserve further directions with regard to the prayer made by Mr. Ramesh Chandra in respect of this matter.

15. The direction contained in paragraph 14 of the Agreement of 26th May, 1978 is withdrawn. We direct the Delhi Development Authority to release the lay-out plan to the Society as soon as may be.

16. We direct that Mrs. Raj Rani Chopra (the applicant in C.Ms. No. 3623 of 1979 and 787 of 1980), Mr. Som Nath (the applicant in C.Ms. No. 793 and 882 of 1980), Mr. Charanjit Lal (the applicant in C.M. No. 579 of 1980) and Mr. Ranbir Kumar Duggal (the applicant in C.Ms. No. 795 and 881 of 1980) shall be

accepted as members of the Society on the same terms and conditions as other teachers, provided that these persons make payments and comply with all the other conditions stated herein above. They will be entitled to allotments of plots and to participate in the aforesaid meeting of the General Body of the Society, provided that any plots are available after withholding enough plots for the persons mentioned in paragraph 10 above.

17. The applications filed by Mr. Raghbir Chand Gupta (C.Ms. No. 794 and 879 of 1980) and Mr. Jagdish Chander Mehta (C.Ms. Nos. 796 and 880 of 1980) will be considered after 30th September, 1980.

All the parties have requested us to keep these proceedings pending so that we can retain control over the matter. We also think that it is desirable to do so.

We direct that if after 30th September, 1980 it is found that any of the said 688 teachers and the 299 non-teachers has forfeited his right to become member, then the Society will hold the forfeited membership vacant and will not admit any new member until further orders of this court.

We have to record that Mr. K.S. Bindra, who represents the Registrar of Co-operative Societies, made a submission that we ought not to accept the compromise arrived at between the parties as it violates bye-law 5 (1)(a) of the Society. However, Mr. Rohtagi and other counsel for the petitioners raised a preliminary objection that the Registrar had no locus standi to raise any objection to the compromise. We accept the contention of Mr. Rohtagi and other counsel for the petitioners and hold that the Registrar of Cooperative Societies has no locus standi to object to the compromise. In these circumstances, it is not necessary to go further and Rule upon the merits of the submission made by Mr. K.S. Bindra.

List this case for further directions on 10th October, 1980."

12. It appears that the decision could not be taken by the new Managing Committee since election to the Society could not take place for various reasons. Some of the persons, who had been accepted as members by order dated 16.5.1980, had also committed defaults. Various miscellaneous applications were filed between 1980-91. Some of the applications were decided and few others remained pending. Before any further order could be passed thereon, persons, who had not preferred any claim earlier before the Arbitrator appointed by the Registrar, Co-operative Societies or before Mr. J.D. Jain, the Arbitrator appointed by the court or in this court or before the Appellate Authority, namely, G.C. Jain, appointed to hear the appeals, filed few other miscellaneous applications in Writ Petition No. 659/77 laying claim to membership.

13. A joint application (C.M. No. 4223/91) was filed by the concerned parties for appointment of an Administrator for conducting elections of the Society and to carry out functions of the Society till new Managing Committee was elected. The Court took notice of the fact that a final list of the members of the Society, 652

teachers and 274 non-teachers had been submitted, out of which 19 persons had incurred, disqualification under Rule 25 of Delhi Co-operative Society Rules; that their cases were pending before the Registrar, Co-operative Societies; and that a prayer had been made by counsel for the parties in the writ petition as well as in the connected writ petitions and miscellaneous applications for appointment of Arbitrator. Considering the state of affairs, which was prevalent in the Society and that no elections had taken place since 1975, by an order passed on 11.9.1991, Mr. N.N. Goswami, a retired Judge of this Court was appointed as an Administrator to take over the management and look after the affairs of the Society and also to go into other questions. The order dated 11.9.1991 reads:-

"In the order dated 29th April, 1991 this Court had observed that no elections have been held in the Society since 1975 and it was essential that the elections should be held as soon as possible. The Court, Therefore, directed Mr. Ramesh Chandra, the learned counsel for the Society to furnish a list of members to whom allotments have been made and also to furnish a list of the persons cleared by the Court, but with regard to whom the Society has raised some dispute.

In pursuance of the above orders the learned counsel for the Society has submitted a list of 652 teachers and 274 non-teachers. By order dated 16th May, 1980, this Court had directed that 692 teachers and 299 non-teachers who formed the body of the membership of the Society, shall comply with certain requirements and if any teacher or non-teacher failed to comply with any of the aforesaid requirements by 30th September, 1980, he shall ipso-facto, be deemed to have forfeited his right, to be a member of the Society. In this order it was further directed that a draw of lots for allotment of plots will be held in accordance with the said orders and thereafter a meeting of the General Body of the Society will be called for the purpose of electing the new Managing Committee. In terms of the said order, only those persons to whom the plots had been allotted, were to be called to the meeting and allowed to participate therein. It has now been stated on behalf of the Society that a number of persons mentioned in the above mentioned list of teachers and non-teachers did not comply with the requirements of the said order. However, a number of submissions were made by such defaulters and this Court from time to time directed such persons to be restored to membership. It has further been stated that out of the above mentioned list of persons approved by this Court on 16th May, 1980 a number of persons had resigned and obtained refund of the amounts deposited by them with the Society and have given complete discharge to the Society. The Society has filed a final list of members of the Society consisting of 652 teachers and 274 non-teachers. It has, however, been stated that 19 persons out of the aforesaid list have incurred disqualification under Rule 25 of the Delhi Co-operative Societies Rules and their cases are pending before the Registrar, Co-operative Societies.

Counsel for the parties to the above Writ petition as well as for the parties in the

connected writ petition and miscellaneous applications have now filed a joint application being CMP 4223/91 for appointment of an Administrator for conducting the elections of the Society and to carry on the functions of the Society till the new Managing Committee is elected.

Keeping in view the facts of the case and also in view of the application filed jointly on behalf of the parties, we are of the view that it has become essential to appoint an Administrator for conducting the elections of the Society and also for carrying on the functions of the Society till the elections are held and new Managing Committee takes over. In the said application the parties have suggested the name of Mr. Justice S.S. Chadha, a retired Judge of this Court to be appointed as the Administrator. However, during the course of arguments on this application it was suggested that a retired Judge who has not dealt with this matter at any stage should be appointed as an Administrator. Since Justice S.S. Chadha had passed various orders in this case, we appoint Justice N.N. Goswami, a retired Judge of this Court as an Administrator of the Society and give following directions.

1. The Administrator after taking over the management of the Society will conduct the elections as soon as possible, preferably within four months.

2. That the elections will be held by secret ballot at a convenient place, time and date to be notified by the Administrator taking into consideration the Rules and Bye-laws applicable for the said purpose.

3. The following category of persons shall form the electorate:-

a) The persons whose names find mention in the list of members submitted by the Society along with the compliance report filed on 24th July, 1991, i.e. 652 teachers and 274 non-teachers. This list includes the names of 19 members mentioned in Annexure-I to CM 4223/91 but according to the Society they ceased to be the members under Rule 25 of the Delhi Co-operative Societies Rules. The cases of all these 19 persons will be examined by the Administrator and they shall be entitled to vote subject to the decision of the Administrator.

b) There are 65 more persons whose membership was accepted by this court vide order dated 16th May, 1980. However, many of these persons have defaulted to comply with the orders passed by this court and/or have since expired and their nominees have moved application before this court for substitution of their names. These persons who have either committed default and/or whose applications for bringing nominees on record are pending before this court shall be entitled to vote in case the Administrator is satisfied that they are entitled to be members of the Society and accepts them as members of the Society fulfilling all the requirements for the allotment of the plots as per orders of this Court dated 16th May, 1980.

4. The decision of the Administrator regarding the above mentioned two categories of persons, i.e. 19 persons mentioned in Clause (a) of the previous

para and 65 persons mentioned in Clause (b) of the said para shall be final. No Court subordinate to this Court, and/or the Registrar co-operative Societies and/or this Court shall entertain the appeal against the order of the Administrator on the question of the decision on the membership issue and their participation in the elections. Further no Court subordinate to this Court and/or the Registrar. Co-operative Societies shall pass an order of injunction and/or in any other manner restraining the Administrator from conducting the elections of the Society.

The Administrator Mr. Justice N.N. Goswami (ret'd.) will be paid a remuneration of Rs. 8000/- per month plus traveling allowance of Rs. 2000/- per month.

In terms of para 10 of the order dated 16th May, 1980, the orders on CMs. 2596, 2762 and 3456 of 1979 moved by 42 persons were deferred till after a new Managing Committee was elected.

An application on behalf of the aforesaid 42 persons being CM 4224/91 has been filed on 8th August, 1991. In this application it has been prayed that the membership issue of these 42 persons may also be referred to the Administrator for decision. We are, however, not inclined to refer this issue to the Administrator. We, Therefore, direct that the new Managing Committee will consider the case of these 42 persons and report its decision to the Court. In case any of these 42 persons is ultimately accepted to be a member by the new Managing Committee or held to be a member by the Court, he will be required to pay Rs. 8000/- and equalisation charges on the same basis as paid by the other members. These amounts will be paid within such time as the court may fix.

The writ petition Along with the other connected matters be placed before the Court after the management of the Society is taken over by the new duly elected Managing Committee."

14. On 28.4.1992 Mr. N.N. Goswami, the Administrator submitted his report stating that out of 75 cases, he had been in a position to decide 70 cases. 5 cases could not be decided for reasons stated in the report. He also reported that the elections to the Society were held on 26.4.1992 and he had handed over the management to the new Committee. The report reads:-

The Annual General Body meeting of the Society has been held today the 26th April, 1992 in the premises of the Society's office at Suraj Mal Vihar. Delhi under the Chairmanship of Mr. Justice N.N. Goswami (Ret'd.) Administrator. The meeting commenced at 9:30 A.M. and the quorum was complete and, Therefore, the agenda was taken up. The Agenda was only the Election of the President, Vice-President and seven Executive Members of the Society.

President

For the office of the President, total 518 votes were polled. One vote was declared invalid. Shri Baldev Raj polled 307 votes as against Shri S.S. Panwar, who polled 210 votes. Shri Baldev Raj was, Therefore, declared elected by the Chairman.

Vice-President

For the office of the Vice-President, 516 votes were "polled. 5 votes were declared invalid. Shri Lakshmi Kant Sharma polled 307 votes as against Mrs. Vimla Bhatnagar polled 168 votes and that Shri M.P. Sharma polled 36 votes. Shri Lakshmi Kant Sharma was declared elected.

Executive Members

As regards the election of the Executive Members, 18 votes were declared invalid and the polling was as under:-

1. Shri Amar Nath Singhal 239 2. Shri Braham Singh 293 3. Shri Chain Singh 272 4. Shri Dharam Vir Jain 268 5. Shri Hari Kant Tyagi 275 6. Shri Hari Kishore Gupta 207 7. Shri H.L. Batra 242 8. Shri Jai Pal Singh 33 9. Shri K.L. Dureja 178 10. Shri Lekh Raj 186 11. Shri Panna Lal 240 12. Shri Param Singh 160 13. Shri Rajesh Kumar 133 14. Shri R.C. Gupta 185 15. Shri R.P. Agarwal 180 16. Shri R.S.Rawat 166

15. Consequently, the following Candidates at Serial Nos. 1 to 5 and 7 & 11 were declared elected:-

1. Shri Amar Nath Singhal 239 2. Shri Braham Singh 293 3. Shri Chain Singh 272 4. Shri Dharam Vir Jain 268 5. Shri Hari Kant Tyagi 275 6. Shri H.L. Batra 242 11. Shri Panna Lal 240

16. The meeting ended after the results were declared by the Chairman/Administrator.

17. On 28.5.1992, the Court considered the report and directed the new Managing Committee to consider the claim of membership of 42 persons, which as per the orders dated 16.5.1980 and 11.9.1991 was directed to be decided by the new Managing Committee. All those persons, who had filed miscellaneous applications in C.W. No. 659/77, were also directed to make their applications before the new Managing Committee for adjudication of their claims. The Court directed the new Managing Committee to pass speaking orders with respect to each claimant and submit its report by 27.8.1992. The order dated 28.5.1992 reads as under:-

"CM 4038/92

Notice for 27th August, 1992.

CW 659/77

The election of the new management committee of the society has already been held by the Administrator under the orders of this Court and Mr. Ramesh Chandra is representing the new managing committee of the society.

All persons who want to have their membership matter decided should apply to the new managing committee and the new managing committee will take a

decision about them by passing speaking order. The members who have already applied to us through CMs including 42 persons mentioned in para 10 of the order dated 16th May, 1980 should also apply to the new managing committee of the society.

We have been informed that the names of 21 members have been cleared by this Court and further 28 names have been cleared by the Administrator. A draw of lots in respect of these 49, persons be held by the new managing committee of the society under the supervision of Mr. N.S. Das Behl, Senior Advocate within four weeks from today. The society will pay Rs. 4000/- as fee to the advocate who will conduct the draw of lots.

Simultaneously the process for deciding the claims of the other 42 persons mentioned in paragraph No. 10 of order dated 16th May, 1980 be also started. The claims of other applicants who have been filing applications before us should also be processed by the new managing committee of the society within next two months.

Counsel for applicants S/Shri Jagdish Chander Mehta and Raghubir Chand Gupta states that the claim of these applicants has already been accepted by the society, the new managing committee should also consider their case.

The persons who want their names to be considered by the society must apply to the society once again as early as possible. The new managing committee of the society will submit a report in this regard on the next date."

18. Pursuant to the aforementioned order dated 28.5.1992, the new Managing Committee received 130 applications including claims of 36 persons from amongst 42 persons. The new Managing Committee directed every applicant to present himself/herself along with the proof of their claim to membership. After hearing the claimants in person, scrutinising their documents, the new Managing Committee passed a detailed order in each and every case and prepared a detailed report dated 27.8.1992 regarding acceptance of the membership of 72 claimants, whose names were included in two separate lists namely, list "A" and list "B". List "A" includes names of 31 teachers and list "B" includes names of 41 non-teachers. A corrigendum was also issued after two days because of a typographical error. Two more names were included in lists "A" and "B". The Managing Committee along with its report and lists "A" and "B" also submitted three other lists, namely, lists "C", "D" and "E". Lists "A" and "B" include the names of persons, whose claims were accepted by the new managing committee. List "C" contains the names of applicants whose claims for membership could not be accepted for want of requisite deposit by them. List "D" contains the names of applicants whose names were rejected by the new Managing Committee and list "E" contains names of applicants whose claims could not be finalised due to non-submission of necessary documents by them. The report submitted by the new Managing Committee thus accepted the claim of only 28 persons from amongst the group of 42 persons, referred to earlier in

orders dated 16.5.1980 and 11.9.1991.

19. On receipt of the report of the Committee and the five lists, the Court commenced hearing the main writ petition. In the meanwhile, few others, who had never approached either the Registrar or Mr. R.C. Jain or Mr. G.C. Jain earlier or this Court in any other miscellaneous application submitted their claim for membership on the ground that they had no knowledge earlier of the proceedings. Arguments were concluded and the judgment was reserved in the main case. On all other pending miscellaneous applications also, it was directed that the same will also be decided along with the main petition.

20. On 20.11.1992, the main writ petition was disposed of along with miscellaneous applications. Matters in controversy were not decided on merits. Considering the fact that the writ petition had become quite old, the Court directed the Managing Committee to give another opportunity to the applicants, whose names were, included in lists "C", "D" and "E" and then finalise their cases within three months from the date and in case any one of them would submit a representation within four weeks, to dispose of the same also within three months. Liberty was reserved to the persons aggrieved to challenge the decision of the Managing Committee before appropriate authority under Delhi Cooperative Societies Act and the Rules made thereunder. Regarding those, who had filed fresh claims, they were directed to prefer their claims before the new Managing Committee with direction to the new Managing Committee to decide their claims, reserving liberty to the claimants to challenge the decision of the Managing Committee, if it be adverse against them, before the Competent Authority, in accordance with law. Thus, all the applications and the writ petition stood finally disposed of by order dated 20.11.1992.

21. The aforementioned petitions barring Writ Petition No. 91/92 and all miscellaneous applications have been preferred subsequent to the final disposal of writ petition No. 659 of 1977.

C.Ms. Nos. 7943, 7944, 7945 & 7946/92

22. C.M.Nos. 7943/92 and 7945/92 are the two applications by Prem Nath and Wanti Devi respectively seeking review of the order dated 20.11.1992 on the ground that they had moved C.M. Nos. 5966/92 and 5991/92 in C.W. No. 659/77. Though the writ petition and other miscellaneous applications had been disposed of on 20.11.1992, their applications were not disposed of with respect to the claim of their membership of the Society. Both of them also filed C.M.Nos. 7944/92 and 1946/92 praying for stay of allotment of plots to 73 persons, who had been accepted as members by the Society in the two lists "A" and "B". In addition to filing of review applications and slay applications, Prem Nath and Wanti Devi have also preferred separate writ petitions namely, C.W. Nos. 4084/93 and 4085/93. Mr. Pandey appearing for Prem Nath and Wanti Devi, in view of filing of substantive petitions frankly conceded that since the miscellaneous applications for review of the order dated 20.11.1992 would not

be maintainable, he does not press the same. As such, C.M.Nos. 7943/92, 7944/92, 7945/92 and 7946/92 are dismissed as not pressed.

23. Further development taking place after C.W. 659/77 was disposed of on 20.11.1992 is the draw of lots. Persons whose claims had been accepted by the new Managing Committee were anxious for allotment. On their applications moved for allotment, interim orders were passed by the Court. The first order was passed on 27.8.1993 in C.M. No. 1554/93, which reads:-

"The Society is directed to conduct draw of lots for 25 members who are amongst 42 members in the list passed in order dated 16.5.80 and as noticed in the order dated 28.5.1992. The Society admits the names of those 25 persons in their reply.

The Society is directed to conduct draw of lots regarding 25 persons against 77 plots available with the Society. The claim of others would be considered amongst the remaining 52 plots. The draw of lots be conducted on 19th September, 1993 at 11 a.m. We appoint Mr. E.X. Joseph, Standing Counsel as the Commissioner for conducting the draw of lots. He should be paid Rs. 5000/- by the Society. However, this draw of lots would be subject to decision of other claims, if any.

To be listed on 24th September, 1993."

24. The second order passed on 17.9.1993 in C.M. Nos. 6677- 6680/92, 1554/93, 7040/93, 7041/93, 7159/93 and 7160/93 reads:-

"All the pending applications shall be listed on 25th October, 1993. Meanwhile, we direct that further to order dated 27.5.93 the draw of lots may be held confined to lists A and B as mentioned in the judgment dated 20.11.1982. This draw of lots will be subject to further orders of this Court. Dasti, if desired."

25. Out of 1031 plots available with the Society, 667 plots had already been allotted to teachers and 282 to non-teachers. Possession was also delivered. Left out plots for allotment are only 77. Mr. Kaushik appearing for some of those applicants, whose names are included in lists "C", "D" and "E" contended that as per the ratio of 20% as provided in bye-law 5(i)(a), number of non-teachers, who have already been allotted plots are far in excess. As per the said bye-law, out of 1031 available plots, it is permissible to allot only 206 plots to non-teachers and remaining 825 plots must go to the teachers. As against 206 non-teacher members entitled to allotment, already 282 non-teacher members have been accommodated. Therefore, all left out plots must go to the member in the category of teachers. He submitted that no person whose name is included in list "B", is entitled to allotment, irrespective of the fact that his or her membership has been accepted by the new Managing Committee. The controversy, which had been raised in the writ petition as regards interpretation of bye-law 5(i)(a) was kept open. Pursuant to the orders of this court, Mr. R.C. Jain acted as an Arbitrator and made his award. Mr. G.C. Jain was appointed as the Appellate

Authority to hear the appeals. Though the appeal was decided by Mr. Jain, disputed question as regards interpretation of bye-law 5(i)(a) was left open in view of the order dated 21.11.1978. Mr. R.C. Jain had accepted only 1029 members and had rejected the claim of 22 persons. The Society challenged the membership only with respect to 42 persons by preferring appeals before the Appellate Authority. 22 persons whose claims were rejected, also preferred appeals. The appeals of 22 persons were dismissed and thus, their claims stood finally rejected. The claim of only 42 survived. Though the appeal of the Society was accepted and claim of 42 was rejected by G.C. Jain, they preferred miscellaneous applications. In the order passed on 16.5.1980, their claim alone was required to be decided by the new Managing Committee. In the meanwhile, others had also chosen to file various miscellaneous applications. The Court also directed their claims to be decided by the Society. Mr. Kaushik submitted that none of the persons whose claims were rejected by G.C. Jain, can be included in the list of accepting members unless and until the award made by G.C. Jain is set aside, in accordance with law by this Court on valid grounds. The Society had already made an admission of maintaining the ratio of 80:20 amongst teachers and non-teachers. In view of the order, which had been passed on 16.5.1980, there was no scope for further admission of non-teachers.

26. Arguing the claim of Waliun Nisa, one of the petitioners in C.W. No. 1984/94, it was contended by Mr. Kaushik that the action of the respondent in admitting non-teachers beyond 20% quota is contrary to bye-law. The petitioners, who are teachers, are being kept out only on the ground of non-availability of requisite number of plots and on the ground that there are non-teachers who are claimants. The plots are proposed to be given to 31 teachers, whose names are in list "A" and to 41 non-teachers, whose names are included in list "B". List "B" includes 16 fresh names. 25 persons in this list are out of those 42 persons, whose claims were rejected by Mr. G.C. Jain. Challenge has been made in this writ petition (C.W. No. 1984/94) filed by teachers to the inclusion of those names, who were excluded by G.C. Jain while deciding the appeals. Mr. Kaushik contended that list "A", "B", "C", "D" and "E" are bad in law and are in violation of quota of 80% and 20% provided in bye-law 5(i)(a). Unless the order of Mr. G.C. Jain is set aside, list "B" cannot be allowed to be operated upon.

27. On behalf of the Society it was contended that there was no reservation for teachers and employees of school. The only limitation placed in bye-law 5(i)(a) is reservation of 20% only to non-school employees. A preliminary objection was raised that the petitioner Waliun Nisa in C.W. No. 1984/94 in para-25 of the writ petition admits correctness of inclusion of 25 non-teachers in list "B" and for that reason alone, those 25 persons have not been arrayed as party to the writ petition. Therefore, the petitioner is precluded from challenging the inclusion of names of 25 non-teachers. Challenge of the petitioner, Therefore, will be deemed to have been confined only to those 16, who have been impleaded as parties. It was further contended that on 16.5.1980 with consent of the parties, two adjudicating authorities were appointed by the Court. The order dated 16.5.1980

is only an interim order and will bind only those, who were parties to the writ petition. The petitioners in C.W. No. 1984/94 are not the original applicants. Their husbands were teachers and had applied for allotment. The petitioners were later on substituted in place of their respective husbands and on the date of admission, the petitioners were non-teachers. Name of Waliun Nisa was included in the wait list since documents were not produced by her in time. Petitioner No. 3 Sushila Ghai is wife of Y.K. Ghai, who has filed CM. No. 3110/82. Her claim was examined by Mr. R.C. Jain. Pursuant to order dated 26.5.1992, she did not approach the Society, but approached the Society only after disposal of the writ petition by filing a claim on 20.11.1992. Her name was included in the wait list. Similarly as regards petitioner No. 2 Ram Rati Devi, wife of Ram Charan Abhay, a teacher, it is stated that she filed an application for impleadment to the writ petition (CM 2111/80). She did not approach the Society pursuant to order dated 26.5.1992. Therefore, her name was not included. It is only pursuant to the order passed on 20.12.1992 that her name was included in the wait list. The respondent Society has taken a stand that the inter-se seniority has been worked out by the Society correctly from the date of passing of the resolution accepting an applicant to be a member of the Society, but in case date of resolution is same, seniority has been worked from the date of initial deposit of Rs. 105.00.

28. On behalf of non-teachers also submissions were made that two authorities, namely Mr. R.C. Jain and Mr. G.C. Jain were appointed as fact finding authorities. They submitted their reports, which were considered by the Court. It was directed thereafter that their claims be decided afresh by the Society. As the Society has submitted its report by taking decision as regards membership, rights of the parties are to be worked out as per the said report. Finally, lists "A" and "B" have to be worked out and thereafter, the remaining persons are to be kept on waiting list and are to be adjusted only on availability of the plots.

29. In the order dated 13.1.1978 it was observed that because of the dispute as regards election of the office bearers of the Society that the parties had been plagued by chronic litigation and for that reason, a reasonable method of electing office bearers was sought to be evolved. A Commissioner was appointed with consent of the parties. Without going into merits of the claims to membership, purely as an interim arrangement, a list was to be prepared of those, who alone could vote participate in the election. When the matter could not be resolved, again a consent order was passed on 26.5.1978. The said order has been quoted above. Membership of the Society was to be ascertained in accordance with the provisions laid down in the consent order. Registrar Cooperative Societies was required to display on the notice board names of 839 persons, who were accepted as members. An advertisement was to be published in Hindustan Times and Nav Bharat Times inviting claims to membership and also objections for inclusion of 839 persons as members. Claims were to be examined by Mr. R.C. Jain. It was done. On 21.11.1978, a clarification was issued as per agreement of the parties, pursuant to query of the Registrar, Cooperative Societies that Mr. R.C. Jain should proceed to decide all the claims before him and should not

concern himself with the question whether limit of 20%, as regards non-teachers imposed by bye-laws is exceeded or not. Nor should he concern himself with the question whether enough plots will be available. It was also clarified that when this list is filed in Court counsel for the parties shall be heard on the question as to the meaning of bye-law 5(i)(a) and how that bye-law should be given effect to as a result of the decision arrived at by the Arbitrator.

30. Mr. R.C. Jain accordingly passed orders on 15.1.1979 and 30.1.1979 deciding the claims. Appeals were filed, which were decided on 16.8.1979 by Mr. G.C. Jain, who in his order also observed that the appeals being heard by him, strictly were neither appeals u/s 76 of the Delhi Cooperative Societies Act, nor appeals to the Appellate Tribunal, but were appeals to an authority appointed by order of the Court dated 26.5.1978. After the reports of Mr. R.C. Jain and Mr. G.C. Jain were filed, the Court proceeded to hear arguments on the meaning and effect of bye-law 5(i)(a), in order to resolve the major controversy as regards exceeding the limit of 20% by non-teachers. On 6.9.1979 after some arguments had been heard on the meaning and effect of the said bye-law, various proposals for resolving the dispute were exchanged between the parties. The parties wanted time to consider the proposals. Adjournment prayed for, was allowed. A request was also made for calling for the records of the Registrar, Cooperative Societies pertaining to the amendment of bye-law 5(i)(a) of the Society. The said record was also directed to be produced on the next date.

31. On 10.9.1977 after the relevant record as regards amendment was made available, again arguments were heard on the true scope of bye-law 5(i)(a). Learned Counsel for the Society sought adjournment stating that the Society intended to call a meeting of the general body and to apprise the members of the position and to seek solution at a general body meeting. It was pointed out that the Society had finally accepted membership of 688 teachers subject to production of certificates by six of them to the effect that they were teachers. The Society had also accepted 196 non-teachers as members of the Society. It was stated that the Society will not raise any further objection to their membership on the ground that they were non-teachers. The case accordingly was adjourned to 8.10.1979 on request it was adjourned from time to time. When on 10.12.1979 it was noticed that no solution was forthcoming, the Court directed the Registrar, Cooperative Societies to remain present on the next date. Decision on the effect of amended bye-law could not be taken thereafter. However, with consent of the parties, an order was passed on 16.5.1980, which has been quoted above. In the said order, on instructions from the Society, its counsel stated that membership of 688 teachers and 299 non-teachers named in the respective lists of teachers and non-teachers placed on record by the Registrar, Cooperative Societies was acceptable to the Society. Accordingly, the consent order provided for the payments to be made by those, who were accepted by the Society as members and to make allotment to them, where after a report was to be submitted to the Court.

32. By the said order, various other miscellaneous applications were also disposed of. It was directed that after allotments had been made, meeting of General Body be called for the purpose of electing a new Managing Committee. In this order also effect and meaning of bye-law 5(i)(a) was not finally decided. It was left open. However, a specific provision was made that vacancy, if any created, will be filled up by teachers until such time when the proportion mentioned in bye-law 5(1)(a) of the Society is restored.

33. Pursuant to the order dated 1.6.5.1980 draw of lots was held on 13.8.1982, result of which was filed in Court. Various orders were passed from time to time by the Court with which we are not concerned at this stage. However, on 11.9.1991, it was noticed that out of the list approved by the Court on 16.5.1980, number of persons had resigned and obtained refund of the amount deposited by them with the Society and the Society had given complete discharge to them. The Society filed final list of members, i.e. 652 teachers and 274 non-teachers. It was also stated that 19 persons out of them had incurred disqualification. Joint application was made for appointment of Administrator. Mr. N.N. Goswami, retired Judge was appointed as an Administrator, who submitted his report on 28.4.1992. On 28.5.1992 an order was passed by the Court slating that as elections to the new Managing Committee of the Society had already been held by the Administrator, therefore, all persons who want their membership matter to be decided, should apply to the new Managing Committee. Pursuant to this order, report was submitted by the new Managing Committee on 27.8.1992. After receipt of the said report, the writ petition was disposed of on 20.11.1992. Only two orders passed on 27.8.1993 and 17.9.1993 after disposal of the writ petition are significant.

34. The orders dated 16.5.1980, 28.5.1992 and 20.11.1992 along with the earlier orders including the order dated 26.5.1978 make it clear that meaning and effect of bye-law 5(1)(a) was not finally adjudicated upon. However, the order dated 16.5.1980 made it clear that any vacancy occurring in the membership of the Society will be operated as per bye-law 5(1)(a) and will be filled up by a teacher until such time as the proportion mentioned in bye-law 5(1)(a) is restored. In other words, it was assumed that the bye-laws do provide that out of the entire membership only 20% can be filled up by non-school employees. Unamended bye-laws said that only such person shall be eligible to be member of the Society if he or she is a teacher in Delhi. New Delhi including Delhi Cantt. and is a paid member of Delhi School Teachers' Association and employee of a recognised school. Membership once accepted, could continue even after retirement. However, the amended Rule made a slight change that only such person would be eligible to become a member, who is resident in Delhi/ New Delhi including Delhi Cantt. and must be a paid member of Delhi School Teachers' Association and employee of a recognised school. Membership would continue even after retirement. The bye-law, however, permitted 20% of the total members to be non-school employees.

35. The circumstances on record do suggest that always it was understood by the parties to the writ petition that this 20% membership can be from amongst non-school employees/non-teachers. Basic qualification for a person to become a member is that he should be a paid member of Delhi School Teachers Association and employees of recognised school. Therefore, rule has to be interpreted in such a manner that basic structure of the Society remains the same, i.e., a Society of Delhi school teachers and not of non-teachers. In that sense, it would not be permissible to exceed the ratio of 20% while admitting members. Therefore, preference had to be given to teachers over non-teachers. Non-teacher members cannot get preference over teacher members, especially when already 20% quota stands exceeded. As such, teacher members, whose names stand duly cleared, will have to get preference over those non-teachers, whose membership is not in dispute.

36. In the view of the matter, as we have taken, let us consider the latest lists submitted, by the new Committee, namely lists "A", "B", "C", "D", and "E". List "A" includes names of teachers whose claim for membership has been accepted by the new. Managing Committee. There is no challenge to this list by anybody. List "B" includes names of those applicant non-teachers, whose claim for membership has been accepted by the Managing Committee. This list is under challenge. It includes names of 41 persons. 25 are those who were included in those 42, whose claim for membership was rejected by Mr. G.C. Jain while allowing appeals of the Society. It includes names of 16 more persons.

37. List "C" contains names of those applicants whose claim for membership could not be decided and accepted by the Managing Committee for want of sufficient deposit made by them.

38. List "D" contains names of those applicants whose claim for membership was rejected by the Managing Committee for not having preferred any claim earlier to the Society.

39. List "E" contains names of those applicants whose claim for membership could not be accepted due to non-submission of necessary documents by them.

40. Needless to add that in the order passed on 20.11.1992 while disposing of the writ petition, Managing Committee of the Society was directed to give another opportunity to the applicants whose names are mentioned in lists "C", "D" and "E" and to finalise their cases within a period of three months. Pursuant to those directions, Managing Committee in its meeting held on 4.7.1993 passed a resolution, after considering the representations made by the claimants, whose names were included in lists "C", "D" and "E". Membership of 15 teachers and 15 non-teachers was accepted by the Managing Committee.

41. In case Society pursuant to direction of this Court reconsidered the cases of those, who earlier were kept in the waiting list and decision has been taken now by the Society accepting claim of some of them, there is no reason that why they should not be included in the respective lists. It may also be mentioned here that

five cases, which were kept pending by Mr. N.N. Goswamy, were also referred to new Managing Committee and supplement report was published by way of corrigendum. Names of three non-teachers were also included as accepted members. Name of one teacher was left out. In this backdrop, lists "A" and "B" would require re-adjustment. List "A" for all intent and purposes will now be deemed to be comprising 31 original names as submitted by the Committee in its report dated 27.8.1992: one name included therein by corrigendum dated 3.9.1992 and 15 persons whose names are referred to in the resolution of the Managing Committee dated 4.7.1993. These 47 persons will be deemed to be included in list "A" in the category of teachers, whose claims for plots will be deemed to have been accepted by the new Managing Committee. Their names are:-

1. Sh. Dwarka Parshad
2. Smt. Mridula Lata
3. Smt. Pushpa Kumari
4. Sh. H.C. Garg
5. Sh. Inder Mohan
6. Smt. Kamlesh Rani
7. Smt. Raj Kumari
8. Smt. S. Pyari
9. Sh. Niwas Sharma
10. Sh. Vasant Lal
11. Smt. Nirmal Kanta Singhal
12. Smt. Vimla Khanna
13. Sh. J.C. Chopra
14. Sh. Ramesh Chand
15. Smt. Shakeela Bagum
16. Smt. Sudesh Sibbal
17. Sh. R.C. Dixit
18. Sh. Om Parkash Mittal
19. Smt. Nirmal Chugh
20. Smt. Sudha Aggarwal
21. Smt. Moni Chadha

22. Sh. Rudra Dev Sharma
 23. Sh. Tirlok Chand Aggarwal
 24. Sh. P.D. Sharma
 25. Smt. Sudesh Bhatia
 26. Sh. Raghbir Chand Gupta
 27. Sh. J.C. Mehta
 28. Sh. Raghbir Singh
 29. Sh. Mange Ram Sharma
 30. Dr. Vidya Bhashan
 31. Dr. Syed Azad Ali
 32. Smt. Shamina Begum
 33. Sh. Manohar Lal Tandon, S/o Sh. Kunj Lal Tandon
 34. Smt. Ram Rati Devi W/o Late Ram Charan Abhey
 35. Sh. Hari Prakash Sharma
 36. Smt. Maya Vanvari, W/o Late P.K. Vanvari 37: Smt. Kamla Chopra, W/o Sh. B.R. Chopra
 38. Sh. Inderjit Arora, S/o Sh. Govind Ram
 39. Sh. Ashok Kumar Kapoor, S/o Late Hari Chand
 40. Smt. Shushila Ghai, W/o Sh. Y.K. Ghai
 41. Smt. Waliun Nisa, W/o Late Zainul Abidin
 42. Sh. Prem Nath, S/o Late Ram Chand
 43. Smt. Prema Saxena, W/o Dr. Adarsh Saxena
 44. Smt. Shakuntala Devi, W/o Sh. R.L. Kapoor
 45. Smt. Shashi Kanta, W/o Sh. Kasturi Lat Kapoor
 46. Smt. Urmila Rani, W/o Late Ratender Samp Mittal
 47. Smt. Maya Devi Sharma, W/o Late Rameshwar Dutt Sharma
42. List "B" will be deemed to be comprising 41 names initially included in the said list sent along with report dated 27.8.1992; 3 names as mentioned in the corrigendum dated 3.9.1992 and 15 names as incorporated in the resolution of the Managing Committee dated 4.7.1993 thereby making a total number of 59 persons in the category of non-teachers, as follows:-

1. Sh. J.R. Sood
2. Sh. S.K. Katiyal
3. Sh T.N. Khanna
4. Sh. R.K. Gupta
5. Sh. J.L.Vali
6. Sh. A.N. Chopra
7. R.K. Chatterjee
8. Sh. D.K. Kumbi
9. Sh. R.C. Shekhar
10. Sh. D.N. Rani
11. Smt. Raj Rani
12. Sh. R.D. Sharma
13. Sh. R.P. Khanna
14. Sh. M.K. Dass
15. Sh. Surinder Singh
16. Sh Gian Singh
17. Sh. D.K. Gupta
18. Sh. C.K. Jain
19. Smt. Urmila Rani
20. Sh. Padam Singh
21. Sh. S.L. Sharma
22. Sh. R.N. Koley
23. Sh. B.B. Vashisht
24. Sh. D.S. Bose
25. Sh. P.D. Pandit
26. Sh. Devi Singh
27. Sh. Munna Lal Garg
28. Sh. R.K. Kapoor
29. Sh. M.C. Gupta
30. Sh. Satpal Mahajan

31. Sh. R.K. Dureja
32. Sh. Raman Lal Gupta
33. Sh. U.M. Viryani
34. Sh. Mangat Ram
35. Smt. Om Wati
36. Sh. Dinesh Gupta
37. Sh. A.B.L. Aggarwal
38. Sh. Mukat Lal Gar
39. Sh. B.B. Srivastava
40. Sh. Kalu Ram
41. Smt. Sita Devi
42. Sh. Amin Chand Aggarwal
43. Sh. Bhupinder Kaur
44. Sh. C.P. Gupta
45. Sh. Sat Ram Dass Udasin, S/o Sh. Chander Mohan Dass
46. Sh. Mohan Lal Khanna S/o Late Mangat Ram Khanna
47. Sh. Pawan Kumar Mittal, S/o Sh. Sita Ram
48. Smt. Vanti Devi, W/o Sh. Krishan Lal Kalra
49. Sh. Prem Kumar Bahal, S/o Sh. A.D. Bahal
50. Sh. Jagdish Chand Sharma, S/o Pt. Tarif Singh Sharma
51. Sh. M.K. Moitra, S/o Late S.N. Gupta
52. Sh. Ved Parkash Gupta, S/o Late Gian Swaroop Gupta
53. Sh. Bijan Mukharjee, S/o Sh. T.D. Mukharjee
54. Smt. Bhagwati Devi, W/o Sh. B.D. Sharma
55. Smt. Kamla Bharadwaj, W/o Sh. Rajinder Bhardwaj
56. Sh. Om Prakash Sharma, S/o Sh. Ram Nath Sharma
57. Smt. Meena Rastogi, W/o Sh. Krishan Kumar Rastogi
58. Sh. Rishi Kumar Sharma, S/o Sh. Bhagwat Swaroop Sharma
59. Smt. Kailash Wati, W/o Sh. B.S. Tyagi
43. The question that now remains is that how the seniority has to be worked

out. Division Bench of this Court in *S.K. Gambhir v. Union of India* (C.W. No. 1116/84) dealt with the question of determining inter-se seniority of members of Cooperative Group Housing Societies and held that a person becomes a member of the Society only when his application is accepted and not on the date on which application is submitted for membership. This judgment was followed in *J.K. Seerha v. Rehabilitation Ministry Employees Cooperative House Building Society and Ors.* (C.W. No. 96/89) decided on 19.5.1989. An appeal Was taken to Supreme Court against the said decision. Date of approval of membership by the Managing Committee as the date for reckoning seniority of members inter-se was approved by Supreme Court in the said appeal reported as *H.C. Suman and another Vs. Rehabilitation Ministry Employees Co-operative House Building Society Ltd. New Delhi and others,* . In view of these decisions, seniority of the persons mentioned in lists "A" and "Br, namely 47 persons in the categories of teachers and 59 in the category of non-teachers will have to be worked out accordingly.

44. An objection was raised on behalf of the Society of not entertaining various miscellaneous applications after the writ petition had been disposed of. There is no doubt that after a writ petition is disposed of finally, nothing survives for consideration and no miscellaneous application can be entertained to revive the proceedings. Even on subsequent events, a Court will not have jurisdiction to entertain the applications as no proceedings can be said to be pending in High Court. Supreme Court in *State of Uttar Pradesh Vs. Brahm Datt Sharma and Another,*

"The High Court's order is not sustainable for yet another reason. Respondent's writ petition challenging the order of dismissal had been finally disposed of on 10.8.1984, thereafter nothing remained pending before High Court. No miscellaneous application could be filed in the writ petition to revive proceedings in respect of subsequent events after two years. If the respondent was aggrieved by the notice dated 29.1.86 he could have filed a separate petition under Article 226 of the Constitution challenging the validity of the notice as it provided a separate cause of action to him. The respondent was not entitled to assail validity of the notice before the High Court by means of a miscellaneous application in the writ petition which had already been decided. The High Court had no jurisdiction to entertain the application as no proceedings were pending before it. The High Court committed error in entertaining the respondent's application which was founded on a separate cause of action. When proceedings stand terminated by final disposal of writ petition, it is not open to the Court to reopen the proceedings by means of a miscellaneous application in respect of a matter which provided a fresh cause of action. If this principle is not followed, there would be confusion and chaos and the finality of proceedings would cease to have any meaning."

45. Facts of the instant case are entirely different. Not only that miscellaneous applications have been preferred for clarification on those matters which were

specifically kept alive to be decided later, which were not decided, but there are fresh writ petitions filed. There is no question of revival of the writ petition by us or passing any orders contrary to the one, which have already been passed earlier, except by giving effect to those orders. In the garb of miscellaneous applications, no fresh claim can be considered and has not been considered by us!

46. In view of what has been stated above by us and of the fact that out of total 1031 plots, 667 have already been allotted to teachers and 282 to non-teachers though as per the ratio, which was to be maintained by the amended bye-law 5(i) (a), non-teachers could not have been allotted more than 206 plots against which 282 have already been allotted, Therefore, preference will have to be given to teachers. We are given to understand that the remaining available plots are only 77. As such, it is directed that firstly, allotments will be made in favor of 47 persons in list "A" according to the seniority, to be worked out as aforementioned. The left out plots to be allotted to persons mentioned from out of list "B" according to the seniority to be worked out as aforementioned. Fresh draw of lots will be held for 47 persons included in list "A" and for left out plots, another draw of lots will be held according to the seniority. Those out of list "B", who cannot be accommodated, will be kept in the waiting list for being allotted plots of land in case fresh plots become available for allotment for any reasons whatsoever including the reason of the Society being allowed by Delhi Development Authority to utilise the remaining area.

47. We may add that the draw of lots, which was held pursuant to the orders dated 27.8.1993 and 17.9.1993 was only tentative subject to the orders to be passed finally and as list "A" now includes names of 47 persons and list "B" includes names of 59 persons, the said draw shall stand cancelled and a fresh draw of lots will be held.

48. The other applicants whose names are not included in the lists "A" and "B" will have no claim for membership in the Society.

49. Other applications stand disposed of in view of the directions issued aforementioned.

C.W. No. 91/92

50. This writ petition initially was filed in Supreme Court of India, which was transferred to this Court by order dated 5.12.1991. It was directed to be heard along with connected matters. The writ petition was filed on 30.4.1992 seeking direction restraining respondents Nos. 3 to 5 from acting as President, Secretary and Treasurer of the Society and to appoint an Administrator.

51. Because of subsequent developments, which have happened and that now a new Managing Committee was duly elected, the petition has been rendered infructuous and is disposed of as such.

C.W. Nos. 4084, 4085, 5344/93 & 1984/94

52. Names of the petitioners now find mention in the resolution of the Managing Committee dated 4.7.1993 accepting their membership. Therefore, no further direction deserves to be issued in these separate petitions for which directions are being issued for allotment of plots.

53. These writ petitions stand disposed of accordingly.

C.W. Nos. 4514, 4517/93, 2491, 2500/94, 214/96, 1056, 1057 & 1978/97

54. These petitioners did not challenge the orders passed by Mr. R.C. Jain and Mr. G.C. Jain respectively, the two designated authorities and did not challenge non-inclusion of their names in the list of successful candidates for membership. They knew fully well of pendency of C.W. No. 659/77 in this Court. The writ petition was disposed of on 20.11.1992. They have chosen to file the petitions claiming membership after lapse of considerable time. Having failed to challenge the orders passed by Mr. R.C. Jain or Mr. G.C. Jain, they cannot be permitted now to raise fresh claim for their membership, especially when time was allowed on 16.5.1980, 28.5.1982 and 20.11.1982 to take up the matter before the new Managing Committee. In exercise of writ jurisdiction, such claims for non-inclusion of their names in the Society's register cannot be accepted, more particularly in view of the decision of Supreme Court in Lt. Col. Surinder Kumar Dutt and Others Vs. Shakti Cooperative House Building Ltd. and Others, . Accordingly, we decline to interfere and dismiss these petitions.

CM. Nos. 7943, 7944, 7945 & 7946/92

55. Dismissed as infructuous.

C.M. No. 5893/93

56. This is an application by the Society seeking direction for conversion of user of plot measuring 1.7 acres reserved for service personnel for residential plots. Such prayer made by way of miscellaneous application after disposal of the writ petition cannot be entertained. Reserving liberty to the applicant to seek remedy elsewhere, in accordance with law, the application is dismissed as not maintainable.

57. The writ petition, and miscellaneous applications accordingly stand disposed of aforementioned.

58. A copy of the order will be placed on the record of each writ petition.